

**REPORT OF**

**THE COMMITTEE OF INQUIRY**

**INTO FARM ATTACKS**

**31 JULY 2003**

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## FOREWORD

The Report of the Committee of Inquiry into Farm Attacks has been a long time in the making. The Committee was appointed on 4 April 2001, and it was then hoped that it would be able to bring out its findings before the end of that year. It became clear to the Committee very quickly that it could not do so. There were many reports and other literature on farm attacks in existence already, and to bring out another one quickly, would have served no purpose at all. The Committee would only have laid itself open to accusations of superficiality. Furthermore, much of the previous work done was also responsible for some incorrect perceptions about farm attacks, and the Committee therefore decided not only to conduct its own research, but also to evaluate the work done already.

Unfortunately, much of the statistical information that the Committee required simply was not available at the time. In fact, many of the statistics used in this Report only became available after its appointment, and some were received as late as 2003. Some of the statistical information was assembled specifically at the request of the Committee, for which it wishes to thank the Crime Information Analysis Centre of the SAPS, both its head office in Pretoria as well as its provincial office in the Eastern Cape. Chief Joint Operations of the SANDF also produced useful statistics.

The Committee also wishes to thank all the other contributors - bodies or persons who made verbal and written submissions, or gave up their time for interviews. Some of them did so at their own personal expense, and spent much time in preparation. They are too many to mention. Some of their contributions are not mentioned or acknowledged in this Report. That is only for lack of space, and the contributions are all highly appreciated. The Committee also wishes to express its appreciation for the assistance it received from the office of the Component: Operational Coordination of the SAPS in Pretoria, where the Committee performed most of its formal work. Many of their staff also gave much of their time.

This report is not going to satisfy everybody, and will challenge firmly held convictions of many interested persons and institutions. Farm attacks are not a simple phenomenon. They have many causes - some direct and some indirect. Furthermore, there are many precipitating factors leading to farm attacks, and there are many reasons why farm attacks happen the way they do. The Committee has analysed the phenomenon of farm attacks to the best of its abilities, and all possible sources of information have been examined thoroughly.

The wish of the Committee is that the readers of this report accept that the Committee has tried to be as comprehensive, unbiased and objective as possible.

Finally, the Committee would have liked to publish this Report also in Afrikaans, since

many, if not most, of its readers will be from the Afrikaans speaking community. Due to constraints of time that is not possible. The Committee therefore decided to have a fairly comprehensive summary in both Afrikaans and English at the end of the Report. The usual executive summary is therefore omitted.

## **PART I**

### **THE NATURE OF FARM ATTACKS**

## **CHAPTER 1**

### **THE APPOINTMENT OF THE COMMITTEE**

#### **HISTORICAL BACKGROUND**

The farming community has been plagued by what has come to be known as farm attacks for many years now. However, most people agree that prior to the last decade of the twentieth century, farm attacks were a relatively unknown phenomenon in South Africa, although during interviews with police officials some have indicated that such attacks did in fact occur from time to time. Some attacks were carried out by the liberation movements, especially in areas along the borders of the country with Zimbabwe and Mozambique. Those attacks consisted mainly of the planting of landmines by Umkhonto we Sizwe, the armed wing of the African National Congress, or by the Azanian Peoples Liberation Army, the armed wing of the Pan Africanist Congress. There were only sporadic direct attacks on farmers themselves. Those attacks formed part of a larger, more general onslaught by the liberation movements, which were still banned at that stage and, statistically speaking, they did not pose a threat to the farming community as a whole. However, those attacks may have had a profound influence on the later perceptions by farmers that farm attacks are politically motivated, especially because of statements by APLA that they regarded white farmers in general as legitimate targets in the liberation war. In fact, even in the late nineteen nineties slogans such as 'Kill the boer, kill the farmer.' and 'One settler, one bullet.' were uttered by prominent politicians which only seemed to confirm the political nature of the attacks.

Since the early nineties there has been a steady increase in the incidence of farm attacks. Unfortunately, until 1997 no official statistics were kept on farm attacks. The reason for this was that there was no specific crime such as a farm attack and farm attacks were registered by the police as crimes such as murder, rape and robbery together with similar crimes in urban areas. Various agricultural organizations did keep some statistics, however. The South African Agricultural Union (SAAU, now Agri SA, the umbrella organisation for most commercial farmers in South Africa) started collecting statistics in 1991. If those are read together with the official figures being kept since 1997, farm attacks increased from 327 in 1991, resulting in 66 murders, to 1011 in 2001, resulting in 147 deaths. In total there were 6122 farm attacks and 1254 killings during those 11 years.

Due to the apparent increasing frequency and brutality of those attacks, it became clear that something had to be done about it. During a meeting of the National Operational Coordinating Committee (NOCOC), which co-ordinates the activities of the South African Police Service (SAPS) and the South African National Defence Force (SAND) at national level, on 4 February 1997 the representatives of the then South African Agricultural Union requested that steps be taken to counter the problem. The SAAU felt that the existing security structures were not functioning satisfactorily and specifically that the follow-up actions by the security force after farm attacks were uncoordinated, hampering the arrest of the suspects. These and other similar overtures led to important

developments during the course of 1997.

Firstly, the Joint Security Staff identified farm attacks as a specific crime tendency requiring special operational attention. As a result it became one of the so-called 'priority crimes', which include taxi violence, gangster violence, cash-in-transit and bank robberies. It also meant that proper statistics were to be kept on various aspects relating to farm attacks in future.

Secondly, a task team was appointed, which visited all the provinces and spoke to a great many stakeholders, including farmers, workers, security force personnel, organized agriculture, and business people. As a result of this the Rural Protection Plan was drafted, which was announced by President Nelson Mandela during a meeting with the SAAU on 14 October 1997. The implementation date was 1 December 1997. The object of the plan is to encourage all roleplayers in rural safety to work together in a coordinated manner and to engage in joint planning, action and monitoring to combat crime in rural areas.

The NOCOC requested the National Intelligence Coordinating Committee (NICOC) on 28 October 1997 to compile a report on the incidence of attacks on the farming community, after having received a request from the President and the Minister for Safety and Security in this regard. This resulted in a report titled 'Attacks on members of the farming community' and dated 5 December 1997. One of the recommendations was that an interdepartmental working group, but also involving agricultural unions, should be established to evaluate the phenomenon and make the necessary recommendations. As a result the Farm Attacks Working Group was established as part of the NOCOC system, operating side by side with working groups for the other priority crimes.

In spite of the introduction of the Rural Protection Plan and other steps taken, the official figures now being kept by the SAPS indicated that there was a sharp rise in the incidence of farm attacks, jumping from 433 in 1997 to 767 in 1998. Although, for reasons to be dealt with later, the increase was probably not as dramatic as it would seem at first glance, the situation was serious enough for President Nelson Mandela to convene the Rural Safety Summit on 10 October 1998. The aim was to achieve consensus around a future process to deal with rural safety in general and farm attacks in particular and to improve existing strategies and to develop new plans of action. At the end of the meeting a formal Declaration was adopted. It condemned murders and other crimes affecting farming and rural communities; it recognised the problem as complex and multifaceted; it stressed the importance of effective law enforcement; it recognised the necessity of involving all people in the rural protection plan; it pleaded for cooperation; it referred to improvements of the criminal justice system; it recognised the rights of victim; and it emphasised the necessity for further research, sustained effort, and the need to strengthen moral values. To give effect three task team working groups were established, dealing with communication, information and research, with operational interventions (i.e. the rural protection plan) and with rural safety policy.

In spite of these steps the incidence of farm attacks did not decline, although there were

signs of the situation stabilizing. More and more farmers began to believe that there was more to it than ordinary crime. Organised agriculture, and especially the Transvaal Agricultural Union (the TAU, now the Transvaal Agricultural Union of South Africa), which had split away from Agri SA, pointed at the increasing incidence of farm attacks, the cruelty often exhibited by the criminals, the 'military precision' with which many of the attacks were executed, the fact that sometimes nothing was stolen during these heinous assault and murder attacks, and the inability of the security forces to deal effectively with the problem. From that they deduced that farm attacks were politically inspired and that the real aim was to drive the (white) farmers off the land so that the land could be occupied by the (black) majority. Some individuals went so far as to accuse the SAPS of a cover up, and even of complicity in farm attacks.

In January 2001 the then Minister for Safety and Security, Mr. S. V. (Steve) Tswete, indicated that the phenomenon of farm attacks would be researched independently to establish the motives. His announcement, however, was followed by another severe spate of attacks, including some in the North West Province which were particularly gruesome and which drew sympathy for the families of the deceased. The farming community was up in arms, and newspaper reports quoted farmers as saying: 'Genoeg is genoeg!' ('Enough is enough'). Minister Tswete, went to the North West Province to commiserate with the families. He also addressed the farming community at Marikana. During these meetings the Minister promised that he would not leave the farmers in the lurch, and he announced that a committee would be appointed to carry out an independent inquiry to investigate the phenomenon of farm attacks.

In March 2001 Agri SA also had a meeting with the Minister, and he immediately took steps to establish the promised committee of inquiry by calling a meeting in Pretoria on 4 April 2001, where various interested parties were present, including persons who had indicated that they were prepared to serve on the committee. At the meeting he said that there was a widespread perception among the farming community that FA were an orchestrated phenomenon, motivated by the desire to drive farmers off their land. This perception was difficult to dispel under the present circumstances while farmers were being attacked and murdered. He instructed the committee to 'leave no stone unturned' to establish the motives and causes for attacks against the farming community. He stressed that the committee should 'do a thorough job', even if it took longer than envisaged.

The Minister's determination to deal with farm attacks has been called into doubt by certain persons and organizations. As will be seen later in this report, some have even accused the Minister and the Government of duplicity and, worse, of somehow being involved in farm attacks. The Committee has absolutely no doubt about the Minister's sincerity. At no stage did he hinder the Committee in any way, and on several occasions he indicated his desire that the inquiry should be finalized as soon as possible. The Committee regrets that that could not happen before his untimely death. It should also be added that the new incumbent, Minister Charles Ngakula, has been equally eager for the Committee's work to be finished.

## COMPOSITION OF THE COMMITTEE

The Special Committee of Inquiry into Farm Attacks was appointed by the National Commissioner of Police on 2001-04-05, in terms of section 34(1)(l) of the South African Police Service Act, No 68 of 1995. It is therefore not a ministerial commission, but a departmental committee. It would be fair to say, however, that the Committee was appointed at the behest of the Minister.

The members of the Committee are as follows:

Adv. C.F. du Plessis SC (Chairperson), a retired Director of Public Prosecutions in the Northern Cape. He has wide experience in criminal law, including the prosecutions of cases resulting from farm attacks.

Ms M.E.A. de Haas, a senior lecturer at the School of Anthropology and Psychology at the University of Natal. She has done extensive research on, *inter alia*, violence in Kwa-Zulu Natal.

Ms. J. Dhlamini, also a senior researcher at the Institute for Human Rights and Criminal Studies at Technicon South Africa, and co-author with Ms Mistry of the report mentioned above.

Ms. D. Mistry, a senior researcher at the Institute for Human Rights and Criminal Studies at Technicon South Africa. She is co-author of a research report on perpetrators of farm attacks.

Prof. C.J. Moolman, head of the Department of Criminology at the University of the North. He has published research papers on the phenomenon of farm attacks.

Mr . M. Rasegatla, Secretary for Safety and Security, who served as the representative of SAPS on the Committee.

Adv. M. Schönreich, senior researcher at the Institute for Security Studies. He specializes in crime prevention and policing, and is co-author of a research report on attacks on farms and smallholdings.

Ms. H.C. van Wyk, head of the Trauma Unit at the Rand Afrikaans University. She has dealt with many victims of farm attacks. (She was not on the original Committee, but appointed later.)

The Commissioner also made available the services of Superintendent L. Tshayana as administrative secretary.

By virtue of their occupations it would appear that the members of the Committee are quite independent. However, since several of the committee members had previously done research in the field of farm attacks and published reports and monographs in which they expressed certain points of view on the topic, it was of some concern whether they could approach the matter without any preconceived ideas. One person gave that as the main reason for not making submissions to the Committee: 'My main problem is that my evidence will be weighed, evaluated and interpreted by a Committee, the majority of

whose members have already in public expressed views, published reports and taken up positions about the very issues the Committee had been instructed to start investigating. They will not simply be evaluating my evidence which might well be in conflict with their publicized views but will also in a sense be sitting in judgment on their own work.’

The Committee itself was not blind to this problem. In fact, the matter was raised by the members at the very first meeting with the Minister on 4 April 2001. After due deliberation they were satisfied that they would be able to maintain the required objectivity and it was decided that the Committee should continue as constituted. There were two reasons for this: firstly, the committee members are either lawyers or academics who, by training and experience, should be able to be objective and even change previously held opinions in the light of new information which may come to light; secondly, they come from very diverse backgrounds, representing, as it were, a broad spectrum of opinions. The Committee has therefore been able to look at the matter from different perspectives. No single group of persons who have an interest in the matter should feel that their views have not been properly considered by the Committee.

As will be seen later, the methodology adopted by the Committee was not the traditional one of formal sittings where only evidence from witnesses is received and considered. The reality is that much research into the problem of farm attacks has already been conducted, and many reports have already been brought out by various bodies and individuals. The result is that there is a large volume of literature already which the Committee has had to peruse and consider. To do so properly required an acquaintance with the subject matter and, in fact, the knowledge and experience of some members in the field of farm attacks have proved to be invaluable.

The only Committee member who can be said to have any vested interests in the findings may be Mr. M. Rasegatle, the representative of the South African Police Service. The reason for this is that the Police Service has been accused from certain quarters of not doing enough about farm attacks, or even of hiding the true state of affairs. At no stage did Mr. Rasegatle attempt to influence the Committee and he never showed any partiality. He quite rightly kept a very low profile, fulfilling the role of observer. The Committee nevertheless values his contribution greatly.

## **TERMS OF REFERENCE OF THE COMMITTEE**

The terms of reference of the Committee were as follows:

‘To inquire into the ongoing spate of attacks on farms, which include violent criminal acts such as murder, robbery, rape, etc, to determine the motives and factors behind these attacks and to make recommendations on their findings. The inquiry should also include the following:

- review of court cases;
- interviews with sentenced persons;
- interviews with the farming community, including victims;

interviews with investigating officers; and  
interviews with any other person or institution which the Committee may  
deem necessary for the purposes of their report.’

An interim report on the matter was to be completed within three months after the establishment of the Committee. A final report and recommendation was to be finalized within a time as agreed upon with the National Commissioner after the submission of the interim report.

The Committee submitted a very brief Interim Report on 2001-07-05. At that stage the Committee was still hoping to bring out a final report by the end of 2001. It quickly became clear that that would not be possible. There were several reasons for this:

The task proved to be much bigger than anyone could possibly have imagined. Not only was there a large volume of existing literature on the subject, which had to be perused and evaluated, but the Committee had to receive a large number of presentations from individuals as well as various bodies and institutions. Then it also had to carry out its own research and analyse the statistics.

The Committee asked the various agricultural unions to submit cases which they thought merited special attention. That information was received only towards the end of 2001, and then it turned out that much of the information supplied was inaccurate. After that it took many months to try and trace the police dockets and other relevant information.

Some time after the inception of the Committee the whole question of land invasions suddenly gained prominence. Although not mentioned specifically in its terms of reference, it quickly became clear that, for reasons that will be set out later, it was not something that could be ignored: it was very relevant to the whole question of farm attacks and security on the farms.

To the disappointment of the Committee, it turned out that much of the statistical data on which it had hoped to be able to rely, was both incomplete and unreliable, requiring careful interpretation. On some matters no statistics were available, and the Committee had to try and compile the necessary statistics to the best of its ability. Some very relevant statistics were received as late as February 2003, at a stage when the Committee was busy finalising its report already.

There were also serious practical problems. All the committee members were fully employed somewhere else. Most members were in fact attached to universities or technicons in either teaching or research capacities. The result was that none of them could devote more than a few days per month to the work of the Committee. It also made it impossible to meet for more than one or two days at a stretch.

The Committee members came from various parts of the country: from the Cape in the south to Polokwane in the north, from Durban in the east to Johannesburg in the west. This made it difficult and very costly to meet in Pretoria more than once a month. More importantly, it made it very difficult for members writing specific sections of the report to discuss matters on a regular basis with other members.

The problem of farm attacks has been investigated in the past by various institutions as well as individuals. Many of those inquiries have been unsatisfactory for various reasons. Often, in their reports, researchers relied on unsubstantiated opinions of previous researchers. The Committee therefore decided to make as exhaustive a study of the matter as possible, even if it meant that the inquiry would take much longer than was hoped for.

Not all the work done by the individual Committee members is reflected in this final report. Some of the research that had to be done was really only tangentially relevant, yet they had to be followed up. Some of the investigations led to dead ends.

There is no doubt that the report is not going to satisfy everybody. The Committee members knew that right from the start and they accept it. What they do wish for is that all persons and bodies who have an interest in the matter should acknowledge the *bona fides* of the individual members, and accept that they have not attempted to hide any information or distort any evidence, but have tried to deal with it openly and objectively.

## **DEFINITION OF FARM ATTACKS**

Although most people seem to know exactly what is meant by a farm attack, the definition of the concept has given the Committee considerable problems. There is no specific crime such as farm attack, whether at common law or in statutory provisions. It is rather the manifestation of crimes such as robbery (usually with aggravating circumstances), house-breaking with intent to rob and robbery (usually also with aggravating circumstances), murder, rape, assault with intent to inflict grievous bodily harm, malicious injury to property, arson, etc.

The term farm attack is not defined in the terms of reference of the Committee either, nor is it to be found in a dictionary. The following definition was approved by the National Operational Co-ordinating Committee (NOCOC): 'Attacks on farms and smallholdings refer to acts aimed at the person of residents, workers and visitors to farms and smallholdings, whether with the intent to murder, rape, rob or inflict bodily harm. In addition, all actions aimed at disrupting farming activities as a commercial concern, whether for motives related to ideology, labour disputes, land issues, revenge, grievances, racist concerns or intimidation, should be included. Cases related to domestic violence, drunkenness, or resulting from commonplace social interaction between people - often where victims and offenders are often known to one another - are excluded from this definition. Specific crimes that are included in the definition are murder, attempted murder, rape, assault with the intent to do grievous bodily harm, robbery, vehicle hijacking, malicious damage to property where the damage exceeds R10 000, and arson. This is also the definition used by the Crime Information Analysis Centre (CIAC) of the SAPS, which also collects statistics on farm attacks.

The NOCOC itself recognises the shortcomings in the definition, and it has also been criticised by various other people and institutions. Human Rights Watch finds it

problematic because of the bundling together of farms and smallholdings, especially since there is no definition of farm' or 'smallholding' either. HRW understands farms to mean 'large commercial farms which provide the sole or main form of income to those who own them', while smallholdings are 'small plots of land mostly surrounding the big cities, where people live and may grow some crops, but which do not form the principal source of livelihood for their owner, who usually work in other employment or are retired'. HRW points out that people living on this type of smallholding are particularly vulnerable to attacks since they are effectively part of the city crime environment. The bundling together of farms and smallholdings has therefore skewed the figures. 'Bundling the figures together generates a picture of remote commercial farms based on information that is in fact derived partly from the very different environment of the semi-rural areas surrounding the big cities.

HRW therefore is of the view that by including smallholdings, the incidence of farm attacks in the narrow sense of attacks on 'remote commercial farms' may appear higher than it is in fact. The Committee is of the view that this is not a valid argument for ignoring attacks on smallholdings. Firstly, there are many smallholdings where commercial farming does take place, e.g. vegetable growing, which is quite common. Conversely, there are some farms - presumably not many - where commercial farming does not take place, e.g. game farms kept for the private use of the owners (often a syndicate). Secondly, smallholders are often subject to the same type of attacks or other forms of intimidation suffered by many commercial farmers but only exceptionally by city dwellers. Thirdly, the statistics now kept by the NOCOC and the Crime Information Analysis Centre (CIAC) do in fact differentiate between attacks occurring on farms and those on smallholdings, and where relevant the distinction between the two can be maintained.

The Committee does not regard the difference between farms and smallholdings as unimportant, however. Because of the different circumstances, such as the relative proximity of the police and the services of security firms, and different dynamics, such as the involvement of urban criminal gangs from nearby informal settlements, a different approach may obviously be called for in dealing with attacks on smallholdings. Furthermore, if one of the motives for farm attacks is the desire to drive the farmers off the land, as many people seem to believe, that motive is more likely to apply to larger farms which can be subdivided into smaller units than to smallholdings. In analysing the statistics the Committee has in fact differentiated between farms and smallholdings whenever it was appropriate.

The second point of criticism that HRW levels against the NOCOC definition of farm attacks is that 'while the definition does not refer to race, in practice racial issues dominate the way the statistics are collected - just as they dominated the decision to start collecting the statistics in the first place'. The organization further allege that violent crimes against farm residents are only taken note of if they are committed in the course of a crime against the (white) farm owner. The Committee itself, however, analysed the NOCOC database on farm attacks, and there are in fact many instances where attacks by outsiders on black farm residents have been recorded in the statistics, without any

indication that they were committed during the course of an attack on the (white) farm owners. HRW also alleges that station commissioners usually have detailed knowledge about violent crime or burglaries against white farmsteads, but they tend to be unaware of violent crime against farm residents committed by unknown outsiders that has come to the notice of HRW. It may be that senior police officers tend to be more aware of crimes associated with farm attacks than other crimes amongst the farming communities. Since many farm attacks, if not most, take the form of armed robberies, often accompanied by serious assault or murder, that may be understandable. The reality is that the (white) farm owner may be seen as a much more lucrative goal for a farm attack than the less well to do workers.

The third point of criticism that HRW raises against the NOCOC definition is that crimes resulting from commonplace social interaction are excluded. Thus, HRW says, 'black-on-black' violence is excluded, whereas in many areas serious assaults among farm workers are the most common violent crime. This creates the impression amongst farm workers that only violent crimes affecting property owners are of importance to the State. Furthermore, the statistics also do not include assaults committed by farm owners against farm workers, which go largely unreported.

This criticism was echoed by the secretary of the National Land Committee (the NLC). He strongly submitted, to the point of ridiculing the Committee, that they should investigate all forms of violence on farms, including violence committed by farmers against farm workers. He submitted that the definition used by the NOCOC was racist, in that it would include an attack of a farm worker on his employer as a farm attack, but not the converse. The Committee should therefore investigate farm safety, and not farm attacks. In his view, an eviction of a farm resident by a farm owner should also be regarded as a farm attack.

The Committee is of the opinion, however, that its mandate is clear and unambiguous. The appointment of the Committee was the direct response of the Minister to the appeals of the farmers in the wake of the 'ongoing spate of attacks on farms which include violent criminal acts such as murder, robbery, rape, etc.', and he tasked the Committee 'to determine the motives and factors behind these attacks'. The reason for the inquiry into motives was the allegation from various individuals and bodies that farm attacks were part of a concerted campaign to drive the farmers off the land. If one looks at the wording of the mandate of the Committee, on the one hand, and the context within which the Committee was appointed, on the other hand, there can be no doubt about the fact that the Minister had in mind farm attacks in the ordinary, narrow sense of the word, and not in the extended sense proposed by HRW and the NLC.

The Committee believes that the type of social fabric crimes that HRW refers to fall outside the mandate of the Committee. A drunken brawl by farm residents who overindulged in liquor can by no stretch of the imagination be described as a farm attack, even if it results in homicide. The same applies to violence committed by farm owners against farm workers, and vice versa. The NLC in its submissions to the Committee alleges that any physical assault by a farm worker on a farmer would automatically be

labelled a farm attack. The Committee came across a case in the North West Province where the police refused to classify an attack by a worker on a farmer as a farm attack, in spite of the protestations of the farmer. In fact, no-where has a simple case of assault by a worker on a farmer resulting from a dispute, for example over wages, been registered as a farm attack.

It may be that violence committed by farmers on farm workers, tenants and other inhabitants on farms merits proper investigation. Several studies, such as the one by the Human Rights Watch itself, have been undertaken in this regard. The South African Human Rights Council organized hearings throughout the country during July and August 2002 where that type of violence was given particular attention. There can be no doubt, however, that this Committee can only investigate violence committed by farmers to the extent that it may have an impact on farm attacks in the narrow sense of the word. That is clear when regard is had to the express statements of the Minister at the inaugural meeting of the Committee quoted above.

The HRW also takes issue with the very term 'farm attack' since it reinforces, 'through the use of the word "attack" the idea that there is a military or terrorist basis for the crimes, rather than a criminal one'. There may be some merit in this assertion. However, it is common to describe a robbery, especially an armed robbery, as an attack, whether carried out against farmers or not. Furthermore, as will be seen later, some of the armed robberies on farmers are in fact nothing less than an attack where, for example, farmers are suddenly overpowered at night and assaulted or killed, or even ambushed while they are returning home from elsewhere and then assaulted and killed.

The Committee has also received complaints from organized agricultural, specifically the Transvaal Agricultural Union, of intimidation and victimization of farmers by certain police officers, who allegedly arrest farmers on the basis of allegedly unfounded complaints of assaults or illegal evictions by farm workers, other farm residents and squatters. Again, it falls outside the Committee's terms of reference to investigate this matter, unless it forms part of a larger and more sinister campaign to drive the farmers off the land, as is alleged by some.

For the purposes of this investigation, therefore, the Committee defines 'farm attacks' in the narrow sense of the word, rather than with the extended meaning referring to all forms of violence on the farms. Furthermore, for statistical purposes the Committee adheres to the NOCOC definition set out above. That definition is not without problems: Although it is fairly specific, it also has arbitrary aspects. The minimum pecuniary damage of R10 000 in the case of arson, for example, is clearly arbitrary and unsatisfactory. It does not take into account cases where the actual damage is less than the set limit, but the potential damage much more. The Committee considered formulating its own definition of farm attacks, but that would have diminished the value of the large volume of statistics already collected by the NOCOC considerably. The Committee is satisfied, however, that the definition used by the NOCOC is sufficiently accurate to collect statistics on the nature and incidence of farm attacks, and to draw conclusions therefrom. The anomalies that may arise from adhering to that definition are

not of sufficient importance to affect the validity of the statistics.

Finally, it should be noted that when the term 'farm attack' is used in this report, it refers to attacks on both farms and smallholdings, unless it is specifically stated otherwise or the context indicates otherwise, in which case the terms 'attacks on farms' and 'attacks on smallholdings' may be used.

## **METHODOLOGY**

### **Introduction**

The terms of reference of the Committee itself partly prescribed the methodology to be followed by the Committee. The Committee was namely instructed in general to inquire into the incidence of farm attacks and to make recommendations, stating that the inquiry should include the review of court cases and interviews with sentenced persons, the farming community, victims, investigating officers and any other person or institution which the Committee may deem necessary.

The procedure for receiving evidence applicable to committees such as the present is set out in the regulations issued in terms of section 24(1)(g) read with section 34(3) of the South African Police Service Act, No 68 of 1995. The regulations are to be found in Government Notice No R.900 dated 4 July 1997 in Government Gazette No 18099. In terms of regulation 5 a committee has the same powers as a court of law to secure the attendance of witnesses and compel them to give evidence. Regulation 3(4), however, authorises a committee to determine its own procedure, and the Committee decided to adopt an informal approach. Furthermore, due to the nature of the inquiry it became clear that receiving oral evidence could not and should not be the only way by which the Committee gathered information.

The Committee had its first meeting in Pretoria on 4 April 2001. There were a total of 18 formal sittings, stretching over some 32 days. However, the members decided right at the outset that it would be impracticable and even impossible to have long sittings as a group, although that would have been very helpful. As mentioned above, not only were the members in fulltime employment elsewhere, but they were also spread throughout the country. Regular meetings would therefore have been impracticable and prohibitively expensive. Most of the work, therefore, had to be done by smaller groups or by individual members on their own.

The Committee gathered inputs and other information in various ways, including

- hearing oral submissions during formal sittings in Pretoria,
- inviting interested persons and bodies to submit written submissions,
- interviewing other persons who could make relevant contributions,
- visiting various areas in smaller groups to obtain firsthand information,

perusing the very large volume of literature on farm attacks already in existence, reviewing and analysing the statistical data supplied by SAPS and other bodies, studying police dockets, files of various Directors of Public Prosecutions and other official documentation relating to court cases, such as court records and judgements, and conducting case studies of specific incidents of farm attacks.

### **Oral submissions**

No person or representative of any institution was formally subpoenaed to give evidence. The Committee rather invited persons or bodies to attend and make submissions. Furthermore, persons making submissions to the Committee were not put under oath, and very often their submissions took the form of informal discussions. Several persons and bodies made submissions more than once and sometimes the Committee asked them for additional information.

With very few exceptions all the persons asked to make submissions to the Committee acceded to the request. The one notable exception was the Pan Africanist Congress, which did not respond to an invitation for their representative to attend a sitting. Prominent officials of the PAC had made pronouncements on the subject of farm attacks on various occasions and the Committee wished to give them opportunity to substantiate the statements. A few other individuals also declined to make submissions, but the Committee did not deem it necessary to compel them to make an appearance.

Although the sittings of the Committee in Pretoria were open, very few members of the public attended. They were usually individuals accompanying other persons making submissions.

Some 32 persons made submissions, either in their personal capacity or on behalf of the institution that they represented, during formal sittings of the Committee in Pretoria. A list is to be found in Annexure A.

### **Written submissions**

Some institutions approached directly by the Committee agreed to prepare written submissions. These included various sections of the South African Police Service, the South African National Defence Force, various governmental departments, agricultural unions, non governmental organisations, etc. Certain individuals were also asked for a written contribution. Some witnesses also elucidated their oral submissions by means of written presentations.

The Committee also invited the general public through the media to submit written submissions on its website or through the post for consideration, but the response in this regard was disappointing.

A total of 23 written submissions were received. (See Annexure B.)

### **Interviews**

Smaller groups or individual members of the Committee visited various parts of the country to conduct interviews with individuals or groups of persons as required by the terms of reference. The reasons for adopting this approach rather than bringing all the witnesses to Pretoria were twofold: Firstly, time and financial constraints made it much more practicable. Secondly, it allowed the Committee to gain first hand experience of the local circumstances.

As part of its qualitative research, the Committee conducted focus group interviews with investigating officers involved with farm attacks, mostly members of the various Serious and Violent Crime Units of SAPS. For these interviews a structured questionnaire was mainly used. Additional interviews were conducted with provincial commanders of SVC Units.

Interviews were also conducted with prosecutors. Those were mainly state advocates attached to the offices of the Directors of Public Prosecutions in the various provinces. The reason for this is that the more serious cases of farm attacks are tried in High Court, where these state advocates handle the prosecutions. They also control some of the prosecutions in the regional courts. Some lawyers who had already left the prosecuting service were also interviewed.

The individuals interviewed included victims of farm attacks or their families in Gauteng, Mpumalanga, North West Province and KwaZulu-Natal. These victims were identified through the agricultural unions and by means of contact persons in the various communities. These interviews were also conducted according to a structured interview schedule. Only those who indicated a willingness to be part of the study were interviewed - no-one was coerced. The victims were assured of confidentiality and anonymity.

Face to face interviews were also conducted with perpetrators of farm attacks. Only perpetrators who had been convicted were targeted for interviews. They were incarcerated in various prisons and specifically identified in order to shed light on their reasons for attacking farms. Again a structured questionnaire was drawn up and administered to the interviewees.

Finally Committee members conducted interviews with individuals, mostly farmers and groups of farmers.

### **Visits to certain areas**

Different members of the Committee visited various parts of the country alone or in small groups to gain first hand information. This included areas where land invasions had taken place, such as Mangete, Nonoti and Enqabeni in KwaZulu-Natal and the Daveyton area in Gauteng. Problems faced by farmers were specifically pointed out by them.

### **Review of literature**

A large body of literature on the topic of farm attacks is already in existence. Much of this is based on previous research, which was of great importance to the Committee. The literature perused by the Committee included academic publications, research reports and commentaries by agricultural and other organisations. (See Annexure D.) There were also quite a number of articles in periodicals that were relevant.

The Committee also had at its disposal hundreds of newspaper clippings on farm attacks. These dealt mainly with specific cases which received publicity rather than general comments. Various members of the Committee went through all the reports to extract those that might be relevant for the purposes of the inquiry.

The perusal of all this literature was an enormous task and in fact probably took up more time than any other of the Committee's activities.

### **Statistical data**

Apart from the statistical data contained in the various publications referred to above, the Committee also had at its disposal the computerised database on farm attacks since 1997, compiled by the NOCOC. The CIAC also provided the Committee with much statistical information.

The NOCOC database contains particulars on some 3544 farm attacks which occurred between 1997 and 2001 inclusive. As will be seen later, this database has some defects, but the Committee found it indispensable for the analysis of certain patterns and trends. Some members of the Committee went through all these cases cursorily, and selected those that required more thorough study.

The database is compiled from various sources, including the so-called daily incident reports, and the Committee also perused many of those reports themselves.

The various agricultural organisations also supplied the Committee with certain statistics.

### **Official records and other documentation relating to court cases.**

Various Committee members visited the offices of the Directors of Public Prosecutions in several of the provinces to peruse the documentation relating to court cases. They were

allowed access not only to official documentation such as court records, judgments, indictments and summaries of the substantial facts of the case, which are all public documents, but also to the internal correspondence and reports of the investigating officers or the local prosecutors handling the cases initially.

Some police dockets were also perused, but the sheer volume of the statements in the dockets and the difficulty in deciphering the notoriously illegible handwriting of police officials made those of limited use as a source of information. Of much more value were the typed summaries of all the witness statements drawn up by the prosecutors (who were familiar with the handwriting!) and kept by the Directors of Public Prosecutions in their own files.

### **Case studies**

Some agricultural organisations submitted lists of cases of farm attacks that they suggested the Committee should look at in detail to substantiate certain points of view that they were maintaining. This related more to cases that were particularly brutal, cases where some political motive could possibly be discerned or cases with a racial undertone. Those came to about eighty cases. The Committee themselves then also identified about thirty cases, mainly through newspaper reports, which they thought deserved further attention, while several more were added during the course of the Committee's investigations.

These cases were then individually considered, and from them a number were selected for detailed case studies. The Committee concentrated on those cases which had actually been brought to trial, on the assumption that the most reliable information would be available on them. Extensive information on those cases were then obtained from various sources, such as the court records, the files of the Directors of Public Prosecutions, the police dockets, prosecutors, investigating officers, provincial offices of the CIAC, victims and other witnesses.

## **CHAPTER 2**

### **THE INCIDENCE AND NATURE OF FARM ATTACKS**

#### **INTRODUCTION**

All experienced investigating officers interviewed by members of the Committee are of the opinion that farm attacks are not a recent phenomenon. At the same time the indications are that farm attacks have been increasing over especially the last decade. The statistical data on this phenomenon, however, are not readily available in the crime registers of the SAPS, now the computerised Crime Administration System (CAS). The reason is simply that there is no such crime as a farm attack. A farm attack is the manifestation of other crimes, usually robbery or housebreaking and robbery, sometimes accompanied by murder, rape, etc.

Statistics on farm attacks have been collected by mainly three bodies, viz. the South African Agricultural Union (SAAU, now Agri SA), the South African Police Service, through their Crime Information Analysis Centre (CIAC), and the National Operational Coordinating Committee (NOCOC), in which the South African National Defence Force is very involved. As will be seen below, none of them has statistics which are completely accurate.

The South African Agricultural Union started collecting statistics on farm attacks and murders in 1991. Because their statistics showed an upward trend in the incidence of farm attacks, the SAAU requested at a meeting of the NOCOC on 4 February 1997 that urgent steps be taken to deal with the problem.

One of the results of this request was that the CIAC started collecting data on the incidence of farm attacks so that the extent of the problem could be evaluated. This they did by means of the so-called incidence report, which the police had to complete at station level after each farm attack. This was really an incident report, giving particulars of the type of attack, name of the farm or plot, nearest town, time and date, investigating officer, particulars of victims and suspects, description of the incident, weapons used, items robbed, suspected involvement of farm workers, the presence of farm shops or stalls, arrests made, any apparent motive, security forces involved, etc.

In 1998 farm attacks also became a so-called priority crime. The National Operational Coordinating structure had priority committees to deal with various problem areas, such as gang violence, taxi violence, cash-in-transit robberies, bank robberies and political violence. Priority committees on rural protection (including security on farms and smallholdings) were added in 1998. The NOCOC therefore started keeping statistics on farm attacks for operational purposes. These statistics are collected primarily by means of the so-called daily situation report on all priority crimes, which is submitted by each policing area on an almost daily basis, and also by means of reports received from SANDF commandos involved in operations against farm attackers. These statistics are

collated on the premises of the police head quarters in Pretoria by designated staff of the SANDF.

The deficiencies of the statistical databases on farm attacks assembled by the three bodies quickly became clear to the Committee. Neither the incidence reports, nor the daily situation reports, nor the reports by the commandos proved to be totally reliable. Consequently the CIAC and the NOCOC now have a meeting once a week to compare statistics. They try to gather information on farm attacks by whatever means available, including newspaper reports and reports from the various agricultural unions, and, if necessary, full reports are then requested from local police stations. After the creation of the Committee the discrepancies became especially apparent and problematic, and both the CIAC and the NOCOC now make a special effort to have databases which are as complete and accurate as possible. They correlated their figures for 2001, and since then their databases have been in agreement.

In its latest report on farm attacks, the Crime Information Analysis Centre analyses farm attacks to a much greater extent than in any previous report. The report contains a great deal of very useful information. Although the report had not been made public yet, it was made available to the Committee in January 2003. Much of the information in this chapter is derived from the CIAC report. The CIAC also supplied the Committee with other statistical information, and recalculated certain figures to meet with the requirements of the Committee.

## **THE INCIDENCE OF FARM ATTACKS**

The Committee attempted to collate the statistics on farm attacks from the various sources, but found that where the statistics overlapped they differed quite considerably. It is therefore difficult to construct a complete statistical picture.

### **The different statistics**

The figures on farm attacks registered by the South African Agricultural Union (now Agri SA) between 1991 and 1997 are given in Table 1.

It is not clear how accurate these figures are. The SAAU got its information primarily, though not exclusively, from local agricultural societies, and the likelihood is that the emphasis might have fallen on commercial farmers, rather than on, for example, smallholders not affiliated to the agricultural societies. These statistics were obviously not intended to be totally complete, but rather sufficient to identify the problem and to demonstrate trends.

The statistics of the CIAC for attacks on farms and smallholdings are given in Table 2. (Although the figures for 2001 have not been made public yet, the Committee has permission to use them. They may still change in very minor respects.)

Table 1

<b>Farm attacks registered by SAAU / Agri SA: 1991 to 1997</b>			
Year	Attacks	Murders	% murders
1991	327	66	20.2
1992	365	63	17.3
1993	442	84	19.0
1994	442	92	20.8
1995	551	121	22.0
1996	468	109	23.3
1997	470	142	30.2
Total	3065	677	22.1

Although the information is intended to be as accurate as possible, the CIAC had the following to say in May 1999: 'The CIAC is still convinced that not all information available at ground level is reported to it or the Crime Intelligence Management Centre by all the parties involved at that level.' Supt. J.C. Strauss from the CIAC confirmed to the Committee that even as late as 2002 it was still a problem, especially in some areas in KwaZulu-Natal, although the situation had improved.

Table 2

<b>Farm attacks registered by the CIAC: 1997 to 2001</b>			
Year	Attacks	Murders	% murders
1997	433	84	19.4
1998	769	142	18.5
1999	813	144	17.7
2000	906	144	15.9
2001	1011	147	14.5
Total	3932	661	16.8

The NOCOC made its whole database on farm attacks available to the Committee. Stretching from 1998 to 2001, it contains information on some 3544 farm attacks. (See Table 3.) Initially this information was gathered mainly through the commando system and later the daily situation reports. It should be noted that the statistics are intended primarily for operational purposes. The NOCOC processes the information as soon as possible after an attack, and it is not necessary for its purposes to be either absolutely accurate or to follow up the information. If a victim of a farm attack dies some time later, for example, the database may not necessarily be updated immediately to indicate the death. It is estimated that the NOCOC database is about 90% reliable.

Generally speaking, the statistics for 1998 and 1999 kept by the NOCOC are higher than those of the CIAC, while during 2000 and 2001 the position is reversed. The reason for this is easy to explain: the Committee was informed by Supt. J.C. Strauss that due to teething problems, it had taken quite a while to get the local station commissioners to

report farm attacks regularly and accurately. In fact, he also gave this as the reason for the huge increase in the CIAC figures for farm attacks between 1997 and 1998. As the reporting improved, the CIAC figures rose, and it is to be expected that from 2000 they were higher than the NOCOC figures.

Table 3

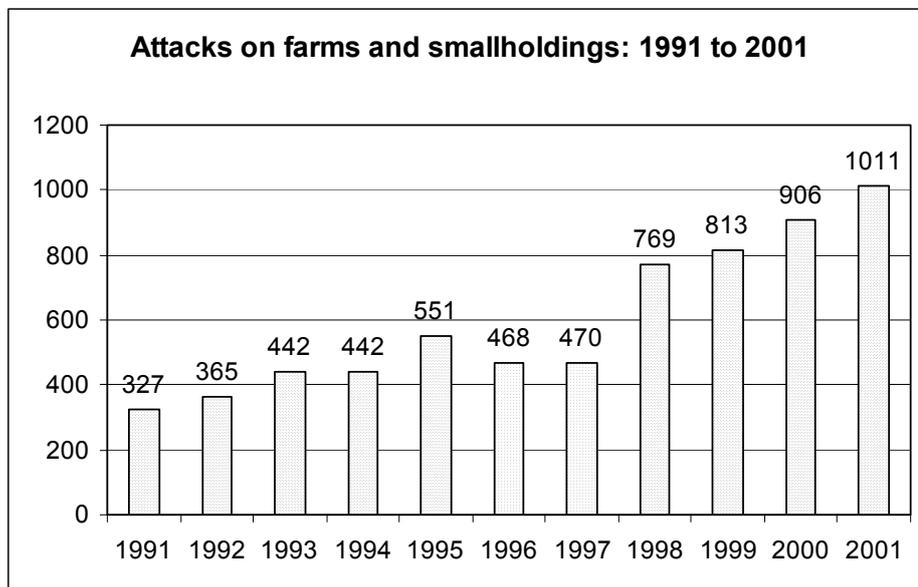
<b>Farm attacks registered by the NOCOC: 1998 to 2001</b>			
Year	Attacks	Murders	% murders
1998	835	157	18.8
1999	853	138	16.2
2000	894	122	13.6
2001	962	124	12.9
Total	3544	541	15.3

### The combined statistics

The situation therefore is that the figures of neither the SAAU, the NOCOC or the CIAC are completely accurate. The Committee has nevertheless attempted to construct as complete a picture as possible of the incidence of farm attacks since 1991. (See Figure 1.)

Figure 1

Sources: SAAU and CIAC



The figures between 1991 and 1996 are those of the SAAU, because they are the only ones available for that period. The CIAC figures for 1997 are so unreliable that the SAAU statistics are used for those years as well. For the period 1998 to 2001 the CIAC

figures are used, although the indications are that their figures for 1998 and 1999 may be less accurate than those of the NOCOC. However, the CIAC's effort to improve the accuracy of the incidence reports, together with the cooperation of the NOCOC over the last few years, means that their figures have become more reliable. The total number of attacks registered in the eleven years between 1991 and 2001 came to 6564, but in reality was probably somewhat higher.

It is clear from the above tables that the number of recorded farms attacks has been on the increase at least since 1991. The Committee is of the opinion, however, that the increase is less dramatic than would appear from Figure 3. The reason is that it is doubtful whether the SAAU statistics covered all farm attacks. As indicated above, they would no doubt have concentrated on commercial farmers. It is also doubtful whether all attacks on other farm residents, which may now qualify as a farm attacks in terms of the definition, would have been included in their statistics. This means that the incidence of farm attacks, as defined at present, might well have been higher than is indicated by the available statistics, especially during the first half of the 1990s. Furthermore, the CIAC also acknowledges that there was an underreporting of incidents, especially during the first few years that it kept statistics on farm attacks. Therefore the increase in the number of incidents over the last few years may partially be due to the improvement in reporting.

As far as murders during farm attacks are concerned, the combined figures of the SAAU and CIAC indicate that 1254 people were killed between 1991 and 2001. The SAAU figures indicate that the rate per incident fluctuated between 17.3% and 23.3% between the years 1991 to 1996. The next year (1997) saw a jump in the murder rate to 30.2%, which accompanied a sharp drop in the number of incidents. This is completely inexplicable, and the Committee is satisfied that it was largely due to inaccurate and incomplete reporting.

The statistics kept by the CIAC indicate a consistent decrease in the murder rate from 18.5% in 1998 to 14.5% in 2001. (The CIAC figure for 1997 is too unreliable from which to draw conclusions.) This would seem to indicate that farm attacks are becoming less violent. However, it is reasonable to assume that underreporting of farm attacks in the past affected mainly the less serious cases and not cases involving murder. There is therefore the possibility that, because less serious farm attacks are now being recorded to a greater extent than before, the murder rate is being reduced at the same time. In real terms however, the murders remained constant at between 142 and 147 from 1998 to 2001. (It should be noted that in fact the number of murders during 2001 may be slightly less than 147 because there is still some dispute whether two of the murders recorded in the Eastern Cape were in fact committed during the course of farm attacks.)

### **The sudden increase in incidents between 1997 and 1998**

Much has been made of the dramatic increase in the number of recorded farm attacks between 1997 and 1998, which saw a jump of 63.6%. Some saw that as evidence of the beginning of some sort of concerted and organised campaign against farmers. The

Committee is convinced that that was not the case at all. First of all, as will be seen from Figure 1 there was a steady upward trend, in an almost perfectly linear pattern, in the incidence of farm attacks from 1991 to 2001 inclusive, with the exception of 1996 and 1997. The sudden and sharp drop in the incidence of farm attacks in the SAAU statistics is quite inexplicable and, as will be seen below, the statistics also indicate a sudden increase in the murder rate in 1997, which is even more inexplicable. This may well indicate inaccurate reporting rather than reality. Of course, the official figure for 1997 kept by the CIAC is even lower than the SAAU figure, but the Committee is satisfied that that was due to the teething problems experienced with the new-introduced reporting system for farm attacks. Attacks on smallholdings during 1997, especially, were not being reported.

This conclusion is further strengthened by the remarks in a CIAC report: ‘(T)he broad patterns observed during the first six months of 1998 with regard to the distribution of crimes accompanying the attacks on farms and smallholdings, the *modus operandi* employed by criminals involved, the motives associated with attacks and the general profile of both victims and attackers did not deviate much from the analysis pertaining to attacks during 1997’. If there were some sinister force behind the apparent increase in farm attacks, one would have expected there to be other differences indicating, for example, a different motive for the attacks.

The Committee should not be understood to imply that farm attacks did not increase during the last decade. All the evidence points to an increase in the number of incidents and underreporting could only have had a marginal effect.

### Incidents per province

In its 2001 report, the CIAC also gives the incidence of farm attacks per province. (See Table 4.)

Table

4

<b>Farm attacks per province: 1998 to 2001 (CIAC)</b>					
Province	1998	1999	2000	2001	Total
Eastern Cape	93	70	74	73	310
Free State	63	53	40	32	188
Gauteng	182	227	272	278	959
KwaZulu-Natal	164	155	162	120	601
Limpopo	41	53	52	52	198
Mpumalanga	110	147	170	277	704
Northern Cape	12	11	16	15	54
North West	60	68	81	117	326
Western Cape	44	29	39	47	159
<b>Total</b>	<b>769</b>	<b>813</b>	<b>906</b>	<b>1011</b>	<b>3499</b>

It will be seen that the figures for Eastern Cape, Free State and KwaZulu-Natal decreased between 1998 and 2001. There is some doubt about the sharp decrease for KwaZulu-Natal, and the CIAC is of the opinion that there may have been some underreporting. The figures for Gauteng, Mpumalanga and North West have shown a sharp increase, while those of Limpopo, Northern Cape and Western Cape remained fairly constant over this period.

The CIAC also analysed the murders committed during farm attacks in each province. (See Table 5.) From this information it is possible to calculate the average murder rate per province. The figures vary too much from year to year, however, to draw valid conclusions, and a comparison of the annual figures for 1998 to 2001 is more useful. (See Table 6.)

Table

5

<b>Murders committed during farm attacks per province: 1998 to 2001 (CIAC)</b>					
Province	1998	1999	2000	2001	Total
Eastern Cape	7	11	9	17	44
Free State	9	3	9	5	26
Gauteng	30	36	47	31	144
KwaZulu-Natal	42	38	35	25	140
Limpopo	7	9	6	4	26
Mpumalanga	19	20	16	27	82
Northern Cape	6	2	3	4	15
North West	9	15	14	21	59
Western Cape	13	10	5	13	41
Total	142	144	144	147	577

Referring to Table 6, it is noteworthy that, proportionally, most murders occurred in KwaZulu-Natal, Northern Cape and Western Cape. It may be significant that those three provinces are also consistently amongst the provinces with the highest incidence of violent crimes (murder, rape and serious assault) in general in South Africa.

Table

6

<b>Average murder rate per incident: 1998 to 2001</b>						
Province	1998 - 2001			2001		
	Attacks	Murders	%	Attacks	Murders	%
Eastern Cape	310	44	14.2%	73	17	23.3%
Free State	188	26	13.8%	32	5	15.6%
Gauteng	959	144	15.0%	278	31	11.2%
KwaZulu-Natal	601	140	23.3%	120	25	20.8%
Limpopo	198	26	13.1%	52	4	7.7%

Mpumalanga	704	82	11.6%	277	27	9.7%
Northern Cape	54	15	27.8%	15	4	26.7%
North West	326	59	18.1%	117	21	17.9%
Western Cape	159	41	25.8%	47	13	27.7%
Total	3499	577	16.5%	1011	147	14.5%

### Farm attacks during 2002

The CIAC made their provisional figures for farm attacks during 2002 available to the Committee, on the understanding that it should be made clear that the figures have not been verified. (See Table 7.) The CIAC warned that no definite conclusions should be drawn from them.

It will be seen immediately that, while the total number of attacks decreased by 1.1%, from 1011 in 2001 to exactly 1000 in 2002, the number of murders decreased by 24.5%, from 147 to 112. Supt J.C. Strauss from the CIAC and Supt R. Pretorius of Crime Information Management Centre (CIMC) are both at a loss to explain this drastic reduction in the murder rate. It is possible that farmers now have a greater awareness of security, and that they tend to handle farm attacks better.

Table

7

<b>Farm attacks and murders: 2001 to 2002 (CIAC)</b>						
Province	2001			2002*		
	Attacks	Murders	%	Attacks	Murders	%
Eastern Cape	73	17	23.3%	43	7	16.3%
Free State	32	5	15.6%	36	4	11.1%
Gauteng	278	31	11.2%	272	26	9.6%
KwaZulu-Natal	120	25	20.8%	106	21	19.8%
Limpopo	52	4	7.7%	68	12	17.6%
Mpumalanga	277	27	9.7%	302	21	7.0%
Northern Cape	15	4	26.7%	9	1	11.1%
North West	117	21	17.9%	104	11	10.6%
Western Cape	47	13	27.7%	60	9	15.0%
Total	1011	147	14.5%	1000	112	11.2%

\*Provisional figures

The Eastern Cape showed the most marked decrease, both in terms of the number of attacks and the rate of murder. This change cannot be explained easily, but it may be significant that the Committee found the Eastern Cape to be one of the provinces where the SAPS was most active in dealing with the problem of farm attacks. Not only did the provincial CIAC office ensure that it was keeping accurate statistics, but the police there, in conjunction with the Eastern Province Agricultural Union, were also very active in the promotion of safety on farms. The Free State, Northern Cape and Western Cape also showed a marked reduction in the murder rate, but their figures are relatively small and

may not accurately reflect trends.

### **Incidence of attacks as a proportion of farm or smallholding population.**

The prevalence of crime is usually calculated in terms of its incidence per 100 000 of the population during the period of one year. That would have been a useful tool to determine whether farm and smallholding residents are at a greater risk of being subjected to the crimes most associated with attacks on them than the population in general. Unfortunately, it has proved to be virtually impossible to do so, or even to calculate the incidence of attacks as proportion of the total number of farms and smallholdings. The reason for this is that the total number of farmers, farm residents or even farms is unknown. The same applies to smallholdings.

In an article Antoinette Louw, a researcher at the Institute for Security Studies, used the Britz-Seyisi report as a basis for drawing certain conclusions about the murder rate for farm residents (farmers, farm workers and their dependants). From the fact that only 31 murders occurred in 198 attacks on farms (excluding smallholdings) during the first five months of 1998, and assuming that there were 4.5 million farm residents in South Africa, she calculated that the murder rate on farms was only 0.6 people per 100 000 of the population (which translates in 2.4 per 100 000 for the whole year). This she compared to the general murder rate for the whole of the country, which was 13 per 100 000 for the first three months of 1998, with a projected total of 52 per 100 000 for the whole year.

Apart from some minor mistakes in her calculations, there are two serious flaws in her reasoning. Firstly, it is impossible to say how many persons are living on South African farms. Secondly, by definition all social fabric crimes are excluded from farm attacks. Those are crimes of murder, rape, serious assault and indecent assault, usually committed by someone known to the victim and often involving the misuse of alcohol. Social fabric crime is rife in rural areas, and there is no reason to assume that it is any different on farms.

On the other hand, Professor Willem Naudé and Larette van Rensburg of the Faculty of Economic and Management Sciences at Potchefstroom University, stated that in South Africa 'a farmer is four times more likely to be murdered than a member of the general population'. It is not clear on what figure the two academics based their calculations. The general murder rate for 1999 was 55 per 100 000 of the population. There were 144 farm murders in 1999, and if one relies on the official figures of about 61 000 commercial farming units, it would give a murder rate on farms of 236 per 100 000, roughly four times the general murder rate. However, that does not take into account that not only farmers but also their families, and the workers and their families, fall victim to farm attacks.

Kwanalu (the Kwa-Zulu-Natal section of Agri SA) calculated that farmers in that province were targeted for attack at between two and four times the rate of the overall population. It would appear, however, that the figures used by Kwanalu for their

calculations were seriously flawed.

### **Crimes committed during farm attacks as a percentage of crimes in general**

As indicated above, the incidence of crime is usually measured as the number of incidents per 100 000 of the population. During 2001 some 21 180 murders were committed in South Africa. With a population of 48 820 000, according to the 2001 statistics, the incidence of murder is therefore 47 persons per 100 000 of the population. Unfortunately, because of the difficulty of establishing the number of farmers, farm workers and their dependants, the incidence of farm attacks cannot be determined on that basis. It is possible to determine what percentage of particular crimes in South Africa are committed during farm attacks. (See Table 9.)

Of the 21 180 murders committed in South Africa during 2001, 147 or 0.69% were committed during farm attacks. This correlates reasonably well with the percentage of .82% for attempted murder. According to the figures for rape only 0.13% of all recorded rapes in 2001 occurred during farm attacks. This is quite significant, as it confirms that rape is not one of the main motives of farm attacks, and is in fact relatively rare. Rape is a notoriously underreported crime, but that would apply to rapes in general and not only rapes during farm attacks.

Table

8

<b>Crimes committed during farm attacks as percentage of crimes in general: 2001</b>			
	South Africa	Farm attacks	Percentage
Murder	21 180	147	0.69%
Attempted murder	29 994	245	0.82%
Rape	53 976	70	0.13%
Armed robbery	119 446	689	0.58%

Source: CIAC

There can be little doubt, however, that the percentage for armed robbery is quite incorrect, because it must be assumed that substantially more than 689 robberies were committed during farm attacks. As said above, the CAS system of the police may not always register robberies if a more serious offence, such as murder or rape, has been committed.

### **Attacks on smallholdings**

Some writers have expressed the view that attacks on smallholdings have inflated the combined figure for attacks on farms and smallholdings. It is only since 2001 that the CIAC has made a distinction between attacks on farms and smallholdings for statistical purposes. The figures are given in Table 9.

Table

<b>Ratio between attacks on farms and smallholdings: 2001 (CIAC)</b>				
Province	Farms	Smallholdings	Total	% smallholdings
Eastern Cape	66	7	73	9.6
Free State	30	2	32	6.3
Gauteng	18	260	278	93.5
KwaZulu-Natal	108	12	120	10.0
Limpopo	35	17	52	32.7
Mpumalanga	234	43	277	15.5
Northern Cape	12	3	15	20.0
North West	87	30	117	16.9
Western Cape	40	7	47	14.9
Total	630	381	1011	37.7

The figures indicate that 62.3% of the premises targeted during 2001 were farms and 37.7% were smallholdings. However, the CIAC specifically draws attention to the fact that the figures for Gauteng tend to distort the picture, since the 93.5% for smallholding attacks in that province is by far the highest of all the provinces. In fact, of the 381 attacks on smallholdings, Gauteng accounts for 260 or 68.2%. In all the other provinces the greater majority of attacks took place on farms. In fact, the average percentage for attacks on smallholdings in the other eight provinces is only 16.5%.

It proved to be very difficult to get accurate information on attacks on smallholdings for the years prior to 2001. The Committee itself analysed the entire NOCOC database of over 3500 cases, which theoretically should indicate whether the property attacked was a farm or a smallholding. The results are shown in Table 10.

Table

10

<b>Ratio between attacks on farms and smallholdings: 1998 to 2001 (NOCOC)</b>								
Property	1998		1999		2000		2001	
Farms	590	70.7%	573	67.2%	616	68.9%	591	61.4%
Smallholdings	245	29.3%	280	32.8%	278	31.1%	371	38.6%
Total	835		853		894		963	

In terms of the NOCOC statistics the proportion of attacks on smallholdings increased from 29.3% in 1998 to 38.6% in 2001. Furthermore, in real terms the number of attacks on farms remained virtually constant over the same period, at 590 and 591 respectively, whereas attacks on smallholdings increased from 245 to 371, i.e. by 51.4%.

After hovering around 30% from 1998 to 2000, the sudden increase of attacks on smallholdings in 2001 is inexplicable, and the Committee is inclined to think that it was at least in part the result of a conscious effort on the part of the NOCOC to keep more accurate statistics of attacks on smallholdings, as was the case with the CIAC. For this reason the proportion of attacks on smallholdings in the CIAC statistics (37.7%) correlates very well with the NOCOC figure of 38.6%.

There is another indication that the earlier NOCOC figures for attacks on smallholdings may be too low: In 1998 Assistant Commissioner Britz and Director E. Seyisi undertook a study of attacks on farms and smallholdings which had taken place between January and May that year. They found that 34.8% of the 305 attacks took place on smallholdings, which is substantially more than the NOCOC percentage of 29.3%.

In all probability, therefore, the proportion of attacks on smallholdings may have been substantially higher than indicated, especially for the years prior to 2001. The Committee is satisfied, however, that attacks on smallholdings did increase over the period from 1998 to 2001, both in real terms and as a proportion of all attacks on farms and smallholdings.

As far as murders during attacks on smallholdings is concerned, Britz and Seyisi found in their study that of the 53 persons killed in attacks on farms and smallholdings during the first five months of 1998, 22 or 41.5% had been killed on smallholdings. Since only 35% of the attacks had taken place on smallholdings, the inference may be drawn that attacks on smallholdings are more likely to result in murder than attacks on farms. It must be pointed out, however, that the study only covered five months and therefore did not take into account possible seasonal fluctuations or how the ratio could have changed later in the year.

It will be noticed that Gauteng, the province with by far the greatest proportion of attacks on smallholdings (93.5%), and Limpopo (32.7%) both have a below average murder rate per incident. One can therefore say with a fair degree of certainty that the murder rate during attacks on smallholdings is no higher than during attacks on farms but, if anything, a little lower.

## **THE NATURE OF FARM ATTACKS**

Farm attacks may take many forms and can be executed in various ways. (Again, unless otherwise indicated, the term 'farm attack' is used in respect of attacks on both farms and smallholdings.) It can happen on any day of the week and at any time of the day or night. It can take place inside the house or outside. Many different crimes can be committed during the course of a farm attack. All kinds of weapons can be used in the attack, and anything of value can be stolen. Some attacks leave the victims unharmed, in other cases they are killed or seriously injured. Some attackers have a clear motive, others not. These and other features are discussed below.

### **Monthly, daily and hourly distribution of farm attacks**

It would seem that the occurrence of farm attacks are distributed fairly evenly throughout the year (see Table 11), possibly with a slight decrease during January and December. (The reason for this strange phenomenon is not known.) An analysis by the Committee of

the NOCOC database for 1998 to 2001 shows the same trend. This phenomenon is difficult to explain. It does not mean, however, that the vulnerability of potential victims is diminished significantly during those two months.

Table  
11

<b>Monthly distribution of farm attacks: 1998 to 2001 (CIAC)</b>												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1998	35	61	69	53	83	57	62	81	68	80	61	59
1999	63	71	89	76	72	72	53	63	63	61	69	58
2000	71	83	79	77	82	72	107	76	62	61	70	66
2001	70	73	92	84	82	78	83	79	82	119	84	85
Total	239	288	329	290	319	279	305	299	275	321	284	268

Similarly the distribution of farm attacks during the days of the week is fairly even, with possibly a slight increase on Fridays. The reason for this is probably that wages are usually paid on Fridays, leading prospective attackers to believe that there are large amounts of money on the farm. Also, traditionally many farmers go to town on Fridays to pick up the children and provisions, so that it is easier for attackers to enter the farm or farmstead unobserved. The figures for 2000 and 2001 are set out in Table 12.

Table  
12

<b>Daily distribution of farm attacks: 2000 to 2001 (CIAC)</b>							
Year	Mon	Tues	Wed	Thur	Friday	Sat	Sun
2000	113	118	137	133	151	127	127
2001	126	128	143	147	187	151	129
Total	239	246	280	280	338	278	256

The CIAC has also analysed the time of attacks during 2000 and 2001 to try and establish which times of the day farm attacks were most like to occur. Unfortunately the time slots used for each year differ, so they cannot be combined in the same table.) The times for 839 attacks during 2000 were registered. (See Table 13.)

Table  
13

<b>Hourly distribution of farm attacks: 2000 (CIAC)</b>					
00:00-03:59	04:00- 07:59	08:00-11:59	12:00-15:59	16:00 -19:59	20:00 -23:59
110	102	178	98	154	197
13.1%	12.2%	21.2%	11.7%	18.2%	23.5%

One would have liked to know how many attacks took place during the hours of daylight and how many at night. For 2001 the times of some 940 attacks were registered and the time slots used by the CIAC are more useful, being periods of three hours each. It made the calculations in Table 14 possible.

Table 14

<b>Hourly distribution of farm attacks: 2001 (CIAC)</b>			
00:00-05:59	06:00-11:59	12:00-17:59	18:00-23:59
160	234	216	330
17.0%	24.9%	23.0%	35.1%

It is obvious that farm attacks can be expected any time of the day. Surprisingly few attacks are carried out during the small hours between midnight and daybreak, while the most dangerous periods are, firstly, the evenings and, secondly, the mornings.

### **Place where farm attack occurs**

The analysis done by the CIAC indicates that about half of all farm attacks take place inside the safety of the home. (See Table 15.) This may happen in the evening while the victims are still awake and the attackers suddenly or stealthily enter the house. Sometimes the victims are overpowered while they are in bed. Often the husband will get up to investigate a noise in the house and is then overpowered in the passage or elsewhere in the house. It is also quite alarming to see how many victims are overpowered in broad daylight by attackers who enter freely through open doors and windows. That not only includes the farmer or his wife, but very often domestic workers who are overpowered in the absence of the employers. Lastly, sometimes the attackers would enter the house while the occupants are away, and then ambush them on their return. Although this does not happen frequently, this type of farm attack is often very brutal, resulting in death or serious injury.

Table 15

<b>Place where farm attacks occurred: 2001 (CIAC)</b>		
Place	Number	Percentage
Inside house	514	50.8%
Outside	295	29.2%
Elsewhere on farm	88	8.7%
At gate	37	3.7%
Farm shop / stall	42	4.2%
Office on farm	18	1.8%
Other	16	1.6%
Total	1011	100.0%

About a third (29.2%) of the victims are attacked outside but in the immediate vicinity of the house. Typically they would be overpowered and then forced into the house where the robbery would be completed. This may happen while the farmer is working outside, or even when he is returning home from somewhere else. Quite often the victim is inside the house, when he hears a noise outside and goes to investigate, only to be overpowered and forced back into the house. Sometimes the attackers wait for the farmer to come

outside on his daily routine, such as switching off a water pump or putting a vehicle away.

Some attacks take place elsewhere on the farm. In KwaZulu-Natal, for example, it has happened on a number of occasions that the farmer was riding around in his truck and is then ambushed in the sugar or timber plantations. These attacks are frequently fatal. The reason is probably that the farmer cannot be stopped or immobilised without shooting and killing him. Also, the attacker needs time to make his get-away before the alarm is raised. Also included in this category are cases where a female farm resident is overpowered while walking on her own, and raped. This is in fact quite common.

In a small number of cases the farmer may be ambushed at a gate on the farm road. The objective of the attack may be to rob the farmer of his vehicle, firearm or cellphone. Typically the attackers would wait in ambush in the bushes or tall grass next to the road. Again, while this does not happen very often, these attacks are often fatal. Sometimes the farmer is followed from town after he has withdrawn money, e.g. to pay wages.

Quite a few attacks take place at the office. This usually happens on the bigger farms where large amounts of money is paid out for wages, especially on Fridays or Saturdays.

Finally, there are other forms of violence, such as fields or plantations being set alight. This happens quite frequently in KwaZulu-Natal, where large scale intimidation of farmers often take place. Other forms of intimidation include cases where farm workers are forced to give information to suspected farm attackers, e.g. concerning the movement of people on the farm or where the money is being held.

### Specific offences committed during farm attacks

There is no such crime as a farm attack, but it can constitute one or more of several crimes. It usually takes the form of robbery or housebreaking with intent to rob and robbery, usually with aggravating circumstances. (Robbery with aggravating circumstances is the legal term for armed robbery.) Sometimes the robbery is accompanied by other crimes such as murder, rape or assault. Sometimes murder or rape occurs on its own.

The CIAC made an analysis of the various crimes committed during farm attacks in 2001. Expressed as a proportion of the total number of farm attacks carried out during 2001, the frequency of the most prevalent crimes committed in the course of the attacks, as registered by the SAPS, is expressed in Table 16.

Table 16

<b>Most prevalent crimes registered as a proportion of all farm attacks: 2001</b>		
Crimes committed	Number	As % of all attacks
Armed robbery	689	68.2%
Attempted murder	245	24.2%
Assault	208	20.6%
Murder	147	14.5%
Rape	70	6.9%
Other	81	8.0%

Unfortunately, these figures are not reliable, for three reasons. Firstly, although nominally all crimes committed during a farm attack are supposed to be registered in the computerised Crime Administration System (CAS), this does not happen in practice, and often only the most serious crimes are registered. Where a victim is killed during a robbery attack, for example, only the crime of murder may be registered and not the armed robbery. The same applies to rape. It is therefore almost certain that the proportion of attacks involving robbery is much higher than indicated in the table. What can be said, however, is that the figure for murder is probably quite accurate. The rapes reported will also be registered fairly accurately.

Secondly, in law, assault (whether common or serious), and sometimes even attempted murder, forms part of the crime of robbery. This means that even if a person is assaulted very seriously during the course of a robbery attack, the assault will not be registered as a separate crime. For this reason it should not be assumed that assaults took place in only 20.6% of the cases - the percentage is likely to be much higher.

Thirdly, although there can be more than one victim during a robbery attack there can still only be one charge of robbery. One can therefore say that, in terms of crimes actually registered, robbery was committed in 68.2% of farm attacks. However, one cannot say that, in the same way, attempted murder was committed in 24.2% of the cases, assault in 20.6%, etc. The reason is that more than one charge of murder, assault, etc., may be laid for any single farm attack, depending on the number of victims. To calculate the

frequency of those crimes, therefore, one has to take into account the number of victims.

According to the CIAC there were a total of some 1398 victims in the 1011 farm attacks during 2001. The number of crimes as a proportion of victims is given in Table 17.

Table 17

<b>Specific offences as a proportion of the total number of victims: 2001</b>		
Crime	Number	As % of all victims
Attempted murder	245	17.5%
Assault	208	14.9%
Murder	147	10.5%
Rape	70	5.0%
Other	81	5.8%

It can therefore be said that in 2001 a victim of a farm attack had a 17.5% chance of having an attempt made on his or her life, and a 10.5% chance of actually being killed. However, the chances of being assaulted were much greater than 14.9%, since many, if not most, robberies are accompanied by physical assaults in any case, which will not be registered as a separate offence. The chances of a female victim being raped were also greater than 5.0%, because that percentage was calculated on male victims as well. There were in fact 571 female victims, which means that a female victim had a 12.3% chance of being raped during a farm attack in 2001.

#### **Victims killed or seriously injured during farm attacks**

Apart from victims killed, the CIAC has also determined the number of victims seriously injured in farm attacks in the various provinces during 2001. (See Table 18.) For purposes of comparison the statistics for murders are also provided.) From the figures it appears that a victim of a farm attack had a 10.5% chance of being killed and a 34.6% chance of being injured. It is interesting to note that the two provinces with the most victims - Gauteng and Mpumalanga - also tended to have the fewest killings, with the exception of Limpopo. The highest fatality rate was in the Northern Cape, but the sample was too small to draw valid conclusions from.

Table

18

<b>Victims of farm attacks killed or injured: 2001</b>					
Province	Victims	Murder	% murder	Injury	% injury
Mpumalanga	374	27	7.2	145	38.8
Gauteng	364	31	8.5	108	29.8
North West	197	21	10.7	59	29.9
KwaZulu-Natal	174	25	14.4	59	33.9
Eastern Cape	92	17	18.5	38	41.3
Western Cape	69	13	18.8	27	39.1

Limpopo	68	4	5.9	25	36.9
Free State	39	5	12.8	18	46.2
Northern Cape	21	4	19.0	5	23.8
Total	1398	147	10.5	484	34.6

Gauteng had a murder rate of 8.5%, compared to the national average of 10.5%. The province had the smallest percentage of injuries of all (29.8%), whereas the national average was 34.6%. Bearing in mind that 93.5% of the attacks in Gauteng occurred on smallholdings, and that the province accounted for 68.2% of all attacks on smallholdings (see Table 9), these figures would seem to indicate that attacks on smallholdings generally are less violent than attacks on farms.

### **Victims raped**

It will be seen from Table 16 that according to the CIAC 70 women were raped during farm attacks in 2001, making up 5% of all the victims or 12.3% of the female victims. The NOCOC database indicates that only 31 of the victims were raped during 2001. (See Table 19.) One therefore has to conclude that the NOCOC figures are not very accurate in this regard. The reason is most probably that many female victims may be hesitant to tell farmers, members of the commando or policemen who have come to their assistance that they have been raped, and may only reveal it at a later stage.

Table

19

<b>Victims raped during farm attacks: 1998 to 2001 (NOCOC database)</b>								
	1998		1999		2000		2001	
White	10	62.5%	14	58%	23	53.5%	9	29%
Black	6	37.5%	19	42%	20	46.5%	22	71%
Total	16		33		43		31	

As a percentage of the total farm attacks registered by the NOCOC, rapes made up 1.9% in 1998, 3.9% in 1999, 4.8% in 2000 and 3.2% in 2001. The unreliability of the NOCOC figures for rape is further emphasised by these wild fluctuations, and the Committee is of the opinion that no valid conclusions can be drawn from them.

What is clear, however, is that a large proportion of rape victims are black. The Committee is not convinced that the increase in rape on black women has been as dramatic as the figures would suggest. It may to a large degree be the result of better reporting of such cases. A frequent scenario is of a black woman walking to the farm shop on the neighbouring farm, and on the way she is be overpowered by a stranger and raped. Because a stranger is involved, the rape would be registered as a farm attack rather than a social fabric crime. A few years ago, however, that might not have been regarded as a farm attack.

### **Weapons used by attackers**

Of the 1011 farm attacks during 2001 the main weapon used by the attackers is known in 909 cases registered by the CIAC. (See Table 20.) The weapons most commonly used were firearms (63.8%). It should be noted that the table refers to the primary or main weapon only - there might have been other weapons as well, such as a combination of a firearm and a knife.

Table 20

<b>Primary weapons used in farm attacks: 2001 (CIAC)</b>		
Weapon	Incidents	Percent
Firearms	580	63.8%
Sharp object	138	15.2%
Blunt object	48	5.3%
Other objects	37	4.1%
Unarmed	106	11.7%
Total	909	100%

It is interesting that in 11.7% of the cases the attacker arrived unarmed, although he might have armed himself during the course of the attack. In those cases, also, it would be reasonable to assume that the intention was to steal rather than to rob. (In law, for the offence of robbery there must be some form or violence or threat of violence towards the victim.)

#### **Property robbed in farm attacks**

The CIAC found that money had been robbed in 31.2% of the farm attacks in 2001, firearms in 23% and vehicles in 16%. (See Table 21.) In total, the CIAC recorded that 466 firearms had been robbed in the 233 separate farm attacks in 2001, while 170 vehicles had been robbed in 162 attacks.

Table

21

<b>Property robbed in farm attacks: 2001</b>				
Province	Firearms	Vehicles	Money	Incidents
Gauteng	54	40	116	278
Mpumalanga	53	39	70	277
KwaZulu-Natal	36	27	38	120
North West	36	25	36	117
Eastern Cape	20	6	17	73
Limpopo	10	10	18	52
Western Cape	11	4	14	47
Free State	9	7	4	32
Northern Cape	4	4	2	15
Total	233	162	315	1011
Percent	23.0%	16.0%	31.2%	

Obviously these items could have been stolen on their own or in combination with other items. In other instances something else was mostly stolen or, in some cases nothing at all was taken. Unfortunately the CIAC report does not have the number of cases where items other than money, firearms and vehicles were stolen. The NOCOC database does have some information to allow the Committee to make calculations and, although the NOCOC database is not entirely reliable, it is interesting to compare the figures. In the 962 cases for 2001 on the database money was stolen on 296 occasions (30.1%), firearms on 227 occasions (23.6%), vehicles on 155 occasions (16.1%), while other items, such as cellphones and televisions sets, were stolen during 427 attacks (44.4%).

### Motives for farm attacks

The Committee analysed the 3544 cases on the NOCOC database in an attempt to determine the motives for the farm attacks. Obviously, more than one factor may motivate a farm attack or cause an attacker to select a specific farm. The Committee therefore tried to identify the cases where the apparent primary or main motive was either robbery, intimidation, political, racial or labour related. A clear motive was apparent in 2644 cases.

Table

22

<b>Apparent motive for farm attacks 1998 - 2001 (NOCOC)</b>					
Year	Robbery	Intimidation	Political/Racial	Labour Related	Total
1998	552	47	17	8	624
1999	576	33	10	13	632
2000	602	74	10	15	701
2001	631	34	15	7	687
Total	2361	188	52	43	2644
	89.3%	7.1%	2.0%	1.6%	

In the other cases the motive could not be established from the database alone because nothing was apparently stolen, or there was another motive such as rape. In Table 22 these other cases are ignored for the present purposes.

- It will be seen that in 2361 (89.3%) of the cases, the motive was clearly robbery. As explained above, this figure is likely to be substantially higher, since the NOCOC database does not accurately reflect the items stolen.
- There were 188 cases (7.1%) of intimidation, for example where crops or buildings were set alight or where people were shot at without reason.

- In 52 (2.0%) cases some political or racial motive was apparent. To determine political or racial motives the Committee relied largely upon utterances made on the crime scene, the remarks of the compilers of the statistics or on some other indication. One has to assume that such overt indications of a political or racial motive will not always be present and that the figure may be higher than the 2.0% indicated.
- Forty three cases (1.6%) were labour related, such as disputes over wages.

The cases where apparently nothing was stolen, are discussed in the section below.

One must assume, however, that there may be more than one motive for a particular farm attack. Some perpetrators, for example, who received amnesty for their attacks from the Truth and Reconciliation Commission, had also robbed a large amount of goods. On the other hand, however, one must also assume that there may be some attackers who attempt to justify the attack afterwards by trying to give it a political colour. Furthermore, some farm attackers try to throw the police off the scent by leaving political or racial clues.

### **Farm attacks where nothing is stolen**

There seems to be a perception that it happens frequently that a farmer or his family are attacked but nothing is taken. That is often seen as proof that the motive for farm attacks is not robbery but something more sinister. Often these cases receive much publicity, reinforcing the belief that it is a common phenomenon. The Committee's investigations show, however, that there are relatively few farm attacks where nothing is robbed, without there being a logical explanation for it.

The belief that nothing has been taken in a particular farm attack is often based on suppositions and incorrect information. A case in point is the Scheepers case, which received much publicity at the time and which was referred to the Committee by the Transvaal Agricultural Union for special investigation. Gerhard and Nellie Scheepers were brutally murdered on their farm in the Ermelo district on 2 December 1997. The TAU was under the impression that nothing had been stolen, whereas in fact cupboards in the house had been emptied and the safe opened and several handguns and other weapons taken. The attackers had also stolen Mrs Scheepers's motorcar, which had in fact led to their being traced by the police.

According to the NOCOC database nothing was stolen, or it is unknown whether anything was stolen, in almost one quarter of all the farm attack cases for the period 1998 to 2001. The Committee found, however, that in the greater majority of those cases there was some logical explanation for this, e.g. the attacker was fought off, or help arrived before the robber could get away with the booty. The Committee nevertheless identified about 86 cases where there was no obvious reason on record why nothing had been taken. It was impossible to fully investigate all of those cases, but the Committee contacted 36 investigating officers of some of the cases. It was found in almost all those cases either that various items had in fact been stolen, or that there was some logical explanation for the fact that nothing had been taken.

These NOCOC cases include several also referred to the Committee by the TAU. Mrs Marais was ambushed at the gate on the farm Newlands, Warmbaths, on 16 March 1998 and shot dead. Apparently nothing was stolen, but it turned out later that her handbag with its contents had been taken. Mr and Mrs Ronaldson were attacked on the farm Sunrise Close, Pietermaritzburg, on 17 March 1998. The husband was killed and his wife injured. The NOCOC report states that nothing was stolen, whereas in fact several items were stolen. Mr Frauenstein was murdered on the farm Sunnygrove, Kidds Beach, 5 September 1998 when he surprised burglars in his house. The burglars ran away, possibly because there were farm workers on the scene. Nothing was in fact stolen, but the attackers had already packed a television set and other items for removal. Mr Bouwer, who lived alone on the farm Uitkyk, Kareedouw, was murdered on 10 September 1998. According to the NOCOC database nothing was stolen, but in fact the bedroom as well as a storeroom was ransacked. There are other examples as well.

The situation is therefore that there are far fewer cases where nothing has been stolen than is indicated on the NOCOC database. The reason for this inaccuracy is probably that the information is passed on to the NOCOC at a very early stage, when it may not be known yet what items have been stolen. This can happen easily, especially where the victim has been killed and it is only established later on that certain items in fact have been robbed. It is easy enough to establish that items such as motor vehicles are missing and, as seen above, the NOCOC figures in this regard are fairly accurate. The loss of other items, such as cellphones or money, may not be so apparent. The NOCOC information is often discussed at the monthly and weekly meetings to which organized agriculture also has access, and the Committee surmises that that may be the source of some of the misconceptions.

The Committee is therefore of the opinion that it is a fallacy that farm attacks are often carried out without anything being stolen or without there being a logical explanation for the fact that nothing is taken. This does not mean that there are no such cases at all. As will be seen below, there are attacks which can be said to be part of a process of intimidation, or politically or racially motivated, or which are labour related. The Committee is merely saying that it is a small minority of cases. There are also some cases where it is impossible to establish any motive at all.

### **Involvement of farm workers in the attacks**

An analysis of the NOCOC database indicated that the involvement of farm workers in farm attacks is very limited. (See Table 23.) It will be seen that the percentages varied from 3.8% in 1998 to 2.0% in 2001, with an average of 2.8%. Even though the NOCOC figures in general are not completely reliable, these figures can be regarded as reasonably accurate. The reason is that guilty farm workers usually disappear immediately after the attack, marking them as obvious suspects.

Table 23

<b>Involvement of farm workers in attacks: 1998 to 2001 (NOCOC)</b>
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Year	No of workers	No of attacks	Percentage
1998	32	835	3.8%
1999	30	853	3.5%
2000	19	894	2.1%
2001	20	962	2.1%
Total	101	3544	2.8%

Even if it is accepted that this figure may be somewhat higher, it is clear that farm workers do not constitute a significant proportion of farm attackers. This really puts paid to the argument raised that many farm attacks are carried out by disgruntled workers.

## THE VICTIMS OF FARM ATTACKS

### Race of the victims

Because of the racial connotation being given to farm attacks by certain individuals and organisations, the CIAC started making breakdowns of figures along racial lines from 2001 onwards. (See Table 24.)

Table

24

<b>Race of victims of farm attacks: 2001 (CIAC)</b>					
Province	White	Black	Asian	Coloured	Total
Mpumalanga	196	178	0	0	374
Gauteng	239	102	23	0	364
North West	145	36	16	0	197
KwaZulu-Natal	81	70	22	1	174
Eastern Cape	61	24	0	7	92
Western Cape	53	14	0	2	69
Limpopo	44	24	0	0	68
Free State	28	11	0	0	39
Northern Cape	14	7	0	0	21
Total	861	466	61	10	1398
Percent	61.6%	33.3%	4.4%	0.7%	

In 2001, white people made up 61.6% of the victims, black people 33.3%, Asians 4.4% and coloured 0.7%. Although the CIAC does not have accurate figures for previous years, it notes in its 2001 report that the black people are increasingly being victimised. Unfortunately they do not have any figures for the previous years.

The Committee also analysed the NOCOC database to determine the racial composition of the victims of farm attacks. Prior to 2002, the NOCOC database did not specifically state the race of the victims and the Committee had to rely on various indicators, including the name of the victim. In the South African context, however, this is an accurate way in which to determine the race of a person. In many instances the race of the

victims could not be determined, but the race of some 3306 victims could be determined fairly accurately. This number is more than big enough to be a fairly reliable sample. (See Table 25.)

Table  
25

<b>Race of victims of farm attacks: 1998-2001 (NOCOC)</b>					
Year	White		Other		Total
1998	631	78.5%	173	21.5%	804
1999	589	74.0%	207	26.0%	796
2000	646	76.3%	201	23.7%	847
2001	580	67.5%	279	32.5%	859
Total	2446	73.4%	860	26.6%	3306

The figures would seem to indicate that the proportion of white victims is in fact becoming smaller, although there is a possibility that the apparent increase may partly be due to the fact that there is a greater coverage of attacks on other people.

The Committee also analysed the NOCOC database in an attempt to determine the race of victims of rape committed during the course of farm attacks. The result in respect of those cases where the race could be established is given in Table 26.

Table  
26

<b>Race of victims of rapes during farm attacks: 1998 - 2001 (NOCOC)</b>						
Race	1998	1999	2000	2001	Total	% change
White	10	19	20	7	56	-30.0%
Other	6	14	23	19	62	+216.0%
Total	16	33	43	26	118	+62.5%

Because of the small sample, it is difficult to draw reliable conclusions. Furthermore, it is generally accepted that rape is one of the most under-reported crimes. It does seem, however, as if the proportion of recorded rapes amongst white females is decreasing, while that amongst the other racial groups is increasing. Again, this may partly be due to increased coverage of such attacks on black people.

### Age and gender of victims

The CIAC analysed the age of some 733 victims of farm attacks during 2001 in great detail, with a break down for each province. (The ages of the other victims are not known.) It will serve no purpose to enclose all that information in this report, and the information in Table 27 will suffice:

Table

27

<b>Age of victims of farm attacks: 2001 (CIAC)</b>						
Age	0 - 19	20 - 39	40 - 59	60 - 79	80 +	Total
Number	43	229	252	183	25	733
Percent	5.9%	31.2%	34.4%	25.0%	3.4%	

In terms of these statistics, 28.4% of all victims are 60 years of age or older. The CIAC remarks, however, that the average age of the victims seems to be lower than in previous years.

Table 28

<b>Gender of victims of farm attacks: 2001 (CIAC)</b>			
Province	Male	Female	Total
Eastern Cape	56	36	92
Free State	18	21	39
Gauteng	230	134	364
KwaZulu-Natal	106	68	174
Limpopo	41	27	68
Mpumalanga	211	163	374
North West	110	87	197
Northern Cape	15	6	21
Western Cape	40	29	69
Total	827	571	1398
Percent	59.2%	40.8%	

During 2001 some 59.2% of the victims of farm attacks were male. (See Table 28.) This predominance was evident everywhere except in the Free State, where there were slightly more female victims than males. (The sample is probably too small to draw a reliable conclusion from.)

### Status of the victims of farm attacks

During 2001 some 974 (69.7%) of the victims were either the owners, lessees or managers of the farms or smallholdings, and their dependants. Some 412 or 29.5% were

employees or their families, and 12 or 0.9% were visitors. (See Table 29.)

Table  
29

<b>Status of victims of farm attacks: 2001 (CIAC)</b>				
Province	Owner/family*	Worker/family	Visitor	Total
Eastern Cape	61	31	0	92
Free State	32	7	0	39
Gauteng	288	74	2	364
KwaZulu-Natal	113	54	7	174
Limpopo	47	20	1	68
Mpumalanga	194	179	1	374
Northern Cape	15	6	0	21
North West	163	33	1	197
Western Cape	61	8	0	69
Total	974	412	12	1398

\*This category includes lessees, managers and their dependants.

## CHAPTER 3

### EXAMPLES OF FARM ATTACKS IN GENERAL

#### INTRODUCTION

In Chapter 5 there are in-depth case studies of some 40 farm attacks. They include some of the cases referred to the Committee by Agri SA and the Transvaal Agricultural Union for special investigation, as well as cases that the Committee itself thought merited further investigation. It will be seen that those cases are all of a very serious nature, many resulting in death, rape or serious injury. Newspaper reports on farm attacks also almost invariably concentrate on the more serious cases, because they are the cases that are sensational and newsworthy. Television programs with video clips of gruesome and tragic farm attacks further contribute to the perception that all or most farm attacks are of that nature.

All farm attacks are serious matters. They mostly involve robbery with aggravating circumstances (armed robbery), which in itself is a serious offence, and they often result in murder, rape or serious injury. The consequence can be tragic. Nevertheless, not all farm attacks fall in the same category, and there are literally hundreds of cases every year where the victims are done no or little physical harm. The case studies are therefore not a representative sample of farm attacks at all.

There are other perceptions - that rape is common during farm attacks; that all or almost all victims of farm attacks are white; conversely, that no or little attention is given to black victims of farm attacks; that most farm attacks are carried out by some sinister force; etc. And indeed, examples to substantiate all these perceptions can be found. However, those cases do not represent all farm attacks or even of the majority of farm attacks.

It might therefore be useful to look at a cross section of farm attacks to see what farm attacks really look like. The Committee had information on more than 3 500 farm attacks and it would have been impossible to summarise them all. However, to select a number of random examples would also not have been satisfactory either, and would have exposed the Committee to accusations of manipulation. The Committee therefore thought it prudent to publish synopses of all 82 cases on the NOCOC database for December 2001. The month is no different from any other month on the database: it was chosen merely because it was the last month on the database that the Committee used. According to the official figures of the CIAC there were 85 farm attacks during that month. The smaller number on the NOCOC database is the result of the factors discussed elsewhere, and is not significant.

In the synopses below fatalities and rapes are indicated in bold letters, since those are the cases that usually receive the most publicity. However, the identities of rape victims are

protected. At the end of the chapter some of the statistics that can be gleaned from the cases are summarised and discussed. Those statistics are to a very large extent in agreement with the national figures, which confirms that the examples are a valid 'sample' of farm attacks in general.

## CASES ON THE NOCOC DATABASE: DECEMBER 2001

1. Mr Van den Berg (aged 57) was at his home on the farm in Mpumalanga when he heard his dogs barking. He took his firearm and went outside. He noticed a man standing at the garage. The man fired shots at him. Mr Van den Berg returned fire and the attacker fled from the scene. No injuries were sustained.
2. The couple (38, black) and their children were asleep in their house on a smallholding in North West when two men forced open the door and threatened them with a firearm and a knife. The attackers assaulted the husband, tied him up and robbed an amount of money. They then took the wife outside and raped her, before fleeing. One victim suffered injuries. **(Rape)**
3. Mr Dulkant (58) was sitting in his room on a farm in Mpumalanga when three men entered and threatened him with firearms. The men blindfolded him, tied his hands with a rope and ordered him to lie down on the floor. They then took the keys of his truck and drove off with it.
4. The woman (21, black) was on her way home on a farm in North West when an unknown man overpowered her, dragged her to an abandoned building and raped her, before fleeing from the scene. **(Rape)**
5. Mr Tshisane (64) was at his home on a farm in Mpumalanga when a man entered the house, threatened him with a knife and demanded money. The man stabbed Tshisane with the knife and robbed him of cash, a hot plate and other items, before fleeing.
6. Mr Da Costa was about to pay his workers on a farm in Gauteng when two men, armed with firearms, approached him and forced him and his workers into the office. The attackers demanded money and Da Costa handed them a large amount of money. Two more men appeared and took his cellphone. The attacker then demanded firearms, but Mr Da Costa told them there were none. They then left in a car parked some distance away.
7. Intruders cut the fence to the farm of Mr Van Rensburg in North West in order to gain access with their vehicle. They then slaughtered three cattle and removed the carcasses of two. Another eight cattle were injured after being severely stabbed with long knives. It is suspected that the carcasses were taken to the township nearby.
8. A girl (15, black) was on her way to the tuck shop on a farm in North West when an unknown man overpowered her, dragged her into the bushes and raped her. The attacker then jumped over the border fence with Botswana and ran away. **(Rape)**
9. Mr Maseko (50) and his passenger, both employees on a farm in Mpumalanga, were travelling home. Just after the turn-off three men emerged from the plantation next to the road. They were armed with handguns and fired several shots at the victims, fatally wounding Maseko. When the attackers came towards the vehicle, the passenger pushed Mr Maseko to the passenger seat and sped off to the farmhouse of his employer. **(Fatality)**
10. Mr and Mrs Hartman (about 65) were asleep on their farm in North West when two

men overpowered them and assaulted them with iron rods. The victims were then tied up. The suspects robbed an unknown amount of money, a shotgun and a pistol. They cut the telephone cables and fled in the Hartmans' motorcar. Hartman managed to free himself and his wife and went to the neighbour for assistance. They were admitted to hospital in a serious condition.

11. Mrs Moloto, a domestic worker on a smallholding in Gauteng, was in the house when three men entered and threatened her with a knife. The men demanded that she open the safe. When she informed them that she did not have the keys to the safe, they attempted to force it open, but failed. They then left and Mrs Moloto contacted the owner and the police.
12. Mr Retief (48) was busy in his office on a smallholding in Gauteng when six men arrived in a truck. They were armed with firearms and one was wearing a police uniform. They pretended to be looking for a murder suspect in the area. However, they then demanded money and ordered Retief to lie down on the floor. They robbed a large amount of cash, a computer, cellphone and wristwatch. They left in the truck.
13. Mr Kritzinger withdrew a large amount of money from the bank and returned to his smallholding in Gauteng. When he stopped at this house three men in a vehicle stopped behind him. They threatened him with firearms and demanded money. They robbed him of the money and a cellphone. They fired three shots into the ground before fleeing. Mr Kritzinger fired at them but missed.
14. Mr Mashula and Ms Malikutu were at their home on a farm in North West when Mashula answered a knock at the door. Two men entered and started assaulting Mashula. They then produced firearms and fired shots at Mashula, wounding him fatally in the chest. They also fired shots at Ms Malikutu while she was attempting to flee, wounding her seriously. They robbed a television set and fled on foot. **(Fatality)**
15. Dr Atkinson (84) was at her house on a farm in the Western Cape when a man wearing a balaclava entered and overpowered her. The man put a piece of cloth over her head and attempted to strangle her, but failed. He then tied her hands with a piece of cloth and locked her into the bathroom. The suspect then ransacked the house and robbed cash, jewellery and a hi-fi- system. He also took her automatic teller machine card with which he later withdrew cash at the bank. The victim sustained injuries.
16. Mr Alfred, his wife and a farm worker were at their house on the farm when two men, wearing balaclavas and gloves, entered and threatened the victims with firearms. Something distracted the attackers' attention, however, and they fled.
17. A suspect was arrested in the Western Cape for being in possession of suspected stolen goods. While searching through the goods, the police found a knife with bloodstains. They confronted the suspect, who admitted that he and another man had been involved in an attack on a smallholding. The police accompanied the suspect to the smallholding where they found the body of Mr Nel (42) in the bathroom. A second suspect was then arrested nearby. **(Fatality)**
18. Mrs Wilsenach (66) and her husband were watching television on their farm in Mpumalanga when a man entered. He threatened them with a firearm and instructed them to sit down. Wilsenach ran to his room to fetch his pistol. The attacker fired a

shot, hitting Mr Wilsenach in the knee. He then returned fire and the attacker fled.

19. A female (41, black) and her younger brother were alone at their house on a farm in Mpumalanga when there was a knock on the door. When the woman opened the door an unknown man entered and asked for water. She gave him some water but he started assaulting her. She tried to flee but the man overpowered her and raped her. When she screamed, someone came to her assistance and the attacker fled. **(Rape)**
20. Mr Snyman (50) withdrew a large amount of cash from the bank and returned to his smallholding in Gauteng. When he stopped at the gate two men in a vehicle stopped behind him, threatened him with firearms and demanded money. They took the money and left in their vehicle.
21. Mrs Nhlabana (32), a security guard on a farm in Mpumalanga, was approached by two men. They threatened her and robbed her of her shotgun and cell phone. They fled on foot.
22. Two men approached Mr Motsweni, a security guard on a farm in Mpumalanga, at his caravan. They threatened him with firearms and tied him up. They then robbed 340 litres of diesel fuel.
23. Mr More (48) was asleep on his smallholding in North West when he was awoken by two men. They threatened him with firearms and demanded money. More informed them that there was no money in the house, whereafter they robbed groceries and clothing. They fled on foot.
24. Mr Bhembe (29) was selling chickens on his employer's farm in Mpumalanga when three men approached him and pretended to want to buy chickens. While Bhembe was busy with the chickens, one of the men took out a firearm, threatened him and demanded cash. They robbed R2 000 and a cellphone.
25. The farm workers on a farm in the Eastern Cape last saw Mr Deetlefs (72) on the Saturday. When they arrived at the farmstead on the Sunday there was nobody. They contacted Deetlefs's son, who found his father's body lying in the shed in a pool of blood. He had been struck in the head with a sickle. His shotgun was missing. **(Fatality)**
26. Mr Lumley was asleep in his house on a smallholding in Gauteng when three men gained entry by forcing open the back door. The attackers overpowered Lumley and assaulted him with a crowbar. While one threatened Lumley with a knife, the other two ransacked the house, robbing electrical appliances as well as two firearms.
27. Two suspects threatened a farm worker on a farm in the Eastern Cape with a firearm and demanded information in connection with the number of persons on the farm and the place where the money was being kept. The farm workers informed the police, who went to the farm immediately, but the men had gone.
28. Mr Masinga (28) was in his house on a smallholding in Mpumalanga when there was a noise outside. When he went to investigate five attackers overpowered him and demanded money. The men forced him back into the house where they robbed him of money, clothes, a television set and a radio. They fled on foot.
29. Ms Gumede (23) was at her place of employment on a farm in KwaZulu-Natal when

she was confronted by three men armed with a firearm and knives. They demanded money and firearms. They then robbed a revolver and the key to the vehicle, but they fled on foot.

30. Mr Meyer (64) was asleep in his house on a farm in the Eastern Cape when he was awoken by a noise inside the house. He went to investigate and was confronted by a man who threw articles at him and kicked the lantern out of his hands. The man then tried to stab Mr Meyer with a knife, before fleeing.
31. The body of Mr Flower (57) was found outside his house on a smallholding in Gauteng, where he was living alone. His hands were tied and he had apparently been beaten with an iron rod. At that stage it was unknown whether anything had been taken. **(Fatality)**
32. Unknown suspects stole nine head of cattle from Mr Oosthuizen's farm in Gauteng. They herded the cattle for about 20 km to a sink hole near a mine. There they cut the tendons of the cattle, apparently to immobilise them. The cattle were then found by Oosthuizen, who had to put them down because of the injuries.
33. Mrs Coetzee (73) was awoken by a man standing over her in her house on a smallholding in North West. When she asked the man what he wanted he assaulted her with the fists and tried to strangle her. Her son woke up because of the noise. When he entered the room the man jumped through the window and fled. It was then discovered that a television set, radio and food had been robbed. Mrs Coetzee had a broken jaw and other injuries.
34. Mr Knoop (72) arrived home on his smallholding in Mpumalanga. While he waited for his wife to open the gate, an unknown person broke the window on the passenger side. Knoop fired a shot in the direction of the person, who then fled.
35. The charred bodies of Mr Katonis (78) and his wife (67), both white, were found in a ditch on their smallholding in Gauteng. There were burnt out tyres on top of the bodies as well as cement blocks. A car bonnet was put on top of everything. It seemed that the couple had been overpowered at the gate to the smallholding. Their motorcar had gone, but nothing else was stolen. **(Two fatalities)**
36. The farmer from Mpumalanga left early in the morning to go to another farm, but he left the house open for the domestic worker, Ms Joyce. Ten minutes after he had gone three men entered the room of Ms Joyce. They threatened her and her male friend, Mr Hlango, with a pistol and tied them up with ropes. One man said that they knew the farm very well and that he would show the other where the safe was. The attackers then went to the main house where they stole a satellite decoder, video machine, clothes and other household item. When the farmer returned shortly afterwards the attackers had gone.
37. Mr Plaatjies (35) a farm security guard, was alone in his house on a farm in the Eastern Cape when four men, armed with knives, knocked on the door and entered. They grabbed Plaatjies, threw him to the ground and dragged him into a room. He screamed but the attackers gagged and blindfolded him, and then tied his hands. They then ransacked the house, robbing groceries and meat. Before leaving they cut the telephone cables.

38. Mr Van Heerden (34) withdrew a large amount of cash at the bank and returned to his smallholding in Gauteng. When he stopped four men, one armed with a pistol, approached him. They threatened him and he was hit over the head with an unknown object. The attackers then robbed the money and his jacket. They fled in a motor vehicle.
39. Mr Faure was sleeping in his house on his farm in Western Cape when he was awoken by a noise. He took his shotgun and went to investigate. He saw two men running out of the house. The sliding door had been forced open and the room ransacked. His video recorder and hi-fi set were gone. Faure then noticed a man standing in the passage with a shiny object in his hand. He fired a shot at the man, fatally wounding him. A pair of scissors were found on the body.
40. Four men entered the office of Mr Karner on his farm in the Western Cape and held him and nine farm workers a gunpoint. They forced Karner to open the safe, and they took R5 000, as well as two shotguns. The victims were then locked up in a cooling room. The attackers fled in a motor vehicle.
41. Mr Basana (35) was on duty as a security officer on a smallholding in Gauteng when a group of fourteen men overpowered him. They threatened him with a firearm and tied his hands with piece of rope. They then ransacked the premises and robbed boxes of food as well as two cellphones and jewellery. They fled in a truck.
42. Mr Joubert (61) returned to his smallholding in KwaZulu-Natal with his truck and stopped in front of the garage. When he got out of his truck to open the garage door, a group of nine men overpowered him. They assaulted him repeatedly and dragged him to a dark spot. One attacker had a firearm and threatened to 'blow his brains out.' They demanded firearms and money. They then tied Joubert's hands and feet and carried him into the house, where they demanded the keys to the safe. He told them where the keys were, and they robbed a shotgun, a rifle, ammunition and cash. They also ransacked the house. They again assaulted Joubert until he lost consciousness, before they fled in his vehicle.
43. A female, (20, black) was approached by three men on a farm in Mpumalanga where she lived. They overpowered her and took her to an open veld where she was raped. Later they took her to a house and raped her again. She managed to escape early the next morning. **(Rape)**
44. Mr Minisi (38) was at his house on a farm in Mpumalanga when an unknown person or persons fired two shots through his bedroom window. The person(s) then ran away. The motive for the attack is unknown. One bullet head was recovered on the scene.
45. A white woman and her daughter (15) were at their house on their smallholding in Gauteng when they were overpowered by two men. The men forced the victims into separate rooms, where their feet were tied. The men then raped the victims before fleeing. One of the attackers had come to the house earlier in the day and asked for water. Nothing was stolen. **(Two rapes)**
46. Mr Kaitako (43) was asleep in the farmhouse of a farm in Mpumalanga when two men kicked open the door. They asked Kaitako where the farm owner was and he told

them the owner was away. They then tied Kaitako's hands and ordered him to open all the rooms as well as the safe. After they established that there were no firearms in the safe they started consuming food and liquor. They played music and danced. Later they took some tools and a radio, cut the telephone cable and left. Kaitako suffered minor injuries.

47. Mr Ngwenya (35) was working in the shed on a farm in Mpumalanga when he was approached by two men. One of them was armed with a firearm and the other with a knife. They threatened Ngwenya and demanded money. He refused to give them money, and the one cut his overall with the knife. The men then robbed Ngwenya of money and his cell phone before fleeing. There were no injuries.
48. Mrs Transell (45) was sitting in her house on the farm when she was hit over the head with an object. She then noticed three men armed with sticks. They went to the safe, opened it and removed two firearms as well as jewellery. Mr Transell arrived at the house and the suspects fired several shots at him. He went for help, but when he returned to the house the men had already fled. Mrs Transell sustained head injuries.
49. Mr Bagg (72) and Ms Masilela (34) were transporting the workers' wages, a very large amount of money, to the farm. When they slowed down to drive across a grid in the road, three men approached and threatened them with firearms. Baggs tried to drive away but he stopped when one of the attackers broke the window. One forced Baggs to move to the passenger seat while one got into the back with Masilela. The third one took the briefcase with the money and walked to the main road. The other two then drove some distance with the victims where they stopped, took the vehicle's keys and walked away. No injuries were sustained.
50. Mr Khoza (26) and two co-workers were at a farm stall in Mpumalanga selling bananas when two men entered. They threatened the workers with firearms and instructed them to lie down on the floor. The attackers robbed R1 500 in cash and two cellular phones, before fleeing. No injuries were sustained.
51. Mr Muller (77) was at home on his smallholding in Gauteng when three men overpowered him. They threatened him with firearms and tied him up. They robbed Muller of his watch and ring, locked him and his dog in the bedroom and fled on foot. No injuries were sustained.
52. Mr Mqabelo (40) and a friend were on the smallholding in Gauteng when three men approached them and threatened them with firearms. The attackers robbed Mqabelo of R300 in a case as well as a cell phone. When Mqabelo's friend resisted, the attackers fired a shot at him, wounding him. They fled on foot.
53. Mr Van Eyssen (65) and his wife were approached by six men on their smallholding in Mpumalanga. Four were armed with firearms. Van Eyssen was overpowered and hit on the head. The attackers took Mrs Van Eyssen inside the house and into the bathroom, where they pushed her head under the water in the bath. They then forced her to write them a cheque to the value of R5 000 and demanded that she open the safe. They then robbed three firearms in the safe. They cut the telephone cable before loading a bicycle onto Van Eyssen's truck and driving off. Both victims were injured.
54. Three men entered the house on a farm in North West Province by cutting the burglar

proofing and breaking a window. They then overpowered Mrs Geldenhuys (61, white), Ms Reyneke (white) as well as a visiting friend and a farm worker. The attackers assaulted Geldenhuys and forced her to open the safe, whereafter they robbed a shot gun, two pistols, a revolver and an amount of cash. They fled on foot. Geldenhuys had a broken jaw.

55. Mr Van Staden (21) was at his house on the farm in Mpumalanga. When he went outside he was approached by three men. Two of them had pistols and they threatened him. Van Staden started running and the attackers fired three shots at him. He fell down whereafter he was overpowered and forced into the house. They tied him up, searched him and took the keys to the safe. They then robbed a pistol from the safe, as well as a television set, computer, radio, cellular phone and cash. They loaded the loot into Van Staden's truck and drove off. No injuries were sustained.
56. Mrs Sibui (59) and her husband were asleep in their house on the farm in Mpumalanga when four men forced open a window. They overpowered the couple and threatened them with a knife. The attackers robbed R1 050 in cash, whereafter they fled. Mrs Sibuya sustained a cut to her thumb.
57. Mr Koen (32) returned to his home on the farm in Mpumalanga. When the headlights shone on the house he noticed a man carrying his microwave oven out of the kitchen. The man ran away and dropped the oven. When Koen entered his house and switched on the kitchen light another man fired six shots at him. The attacker then fled from the scene. Three bullet heads were later found. No injuries were sustained.
58. Mr Falconer (45) was in his house on the farm in Mpumalanga. When he went outside he was approached by four men. They threatened him with firearms and assaulted him, before forcing him back into the house. There they robbed three pistols, a shotgun and electrical appliances. Falconer sustained injuries.
59. Mr Gunther (62) was alone on his smallholding in Gauteng when persons attempted to steal his car. From the investigation it seems as if Gunther confronted the attackers but he was overpowered. They assaulted him and forced him into the house, where he succumbed to his injuries. The motorcar's ignition had been tampered with and a knife, hammer, broken bottle and a brick were found inside the vehicle. The house was ransacked and initial investigations showed that a radio was missing. Gunther's body was found the next day by the domestic worker. (**Fatality**)
60. Mr Raath (32) telephoned the SAPS, informing them that he was being attacked on his smallholding in Gauteng. The police could hear shots being fired over the telephone. They rushed to the scene, where there was a shoot-out with the attackers. Two attackers were wounded, one of whom died on the way to the hospital. A generator and computer equipment were found in possession of the attackers. There were six to eight attackers.
61. Mr Janse van Vuuren (77), who lived alone on his farm in North West Province, went outside in the morning when three men overpowered and assaulted him. They forced grass into his mouth in order to silence him. They then dragged him into the house and tied him up in the bedroom. The attackers opened the safe and robbed a pistol and a revolver. A neighbour, Mr Botha (45) arrived and knocked on the door. When

there was no reply he walked round the house. When he passed a window one of the attackers fired a shot at him, fatally hitting him below the left eye. The attackers then fled on foot. Janse van Vuuren sustained injuries. (**Fatality**)

62. Three men approached the house of Mr Nkwena on a smallholding in Gauteng and fired a shot through the door. They then broke down the door, entered and overpowered Nkwena and his wife. They assaulted the victims and demanded money. They ransacked the house and robbed clothing and R120 in cash. Before fleeing they fired shots at the victims, wounding Nkwena in the leg.
63. Mr Ntiwane (59) was asleep in his house on a smallholding in Mpumalanga, when he was awoken by two men. They told him not to get up, but he started fighting with them. The attackers then assaulted him, hitting him on the head with a firearm. They locked him into one of the rooms before robbing household items and electrical appliances. Injuries were sustained.
64. Mrs Shongwe (37) and her husband were asleep in their home on a farm in Mpumalanga when they were awoken by men. The attackers assaulted the couple before robbing a television set and a radio. Both victims sustained injuries.
65. When Mr Malan (53) arrived on his smallholding in Limpopo and stopped to open the gate, three men overpowered and assaulted him. They kicked him and robbed him of money and his cellular phone before fleeing. Malan sustained minor injuries.
66. Three men entered the shebeen of Mr Ngube (25) on a plot in Gauteng. They held the patrons at gunpoint and robbed a firearm and about R400 in cash. A shoot-out occurred, and Ngube was shot in the arm and stomach. A patron as well as one of the attackers were also injured. The other attackers put their injured accomplice in a vehicle and fled.
67. The body of Mr Maritz (51) was found in an orchard on his farm in the Western Cape on Christmas Day. He had stabwounds to the left shoulder. (**Fatality**)
68. A female (53, white) was alone in her house on a farm in Mpumalanga when when a man, wearing a mask, gained entry into the house through an unlocked door. The attacker overpowered her and demanded sexual intercourse. The woman managed to fight off the attacker, however, whereafter he fled. She sustained minor injuries. (**Attempted rape**)
69. Mr Mlimi (26) and his parents were at their home on a farm in Mpumalanga when two men broke on of the windows. The attackers entered the house and threatened the father with a firearm. The attackers demanded money, but Mlimi informed them that they had nothing. The attackers then robbed a television set, speakers, CD's and groceries before fleeing. No injuries were sustained.
70. Mr and Mrs Kirkpatric were in the house on a smallholding in Mpumalanga when five men entered and overpowered the husband. The attackers gagged Kirkpatric and tied his hands. They demanded money and firearms. The attackers went to the kitchen where they overpowered Mrs Kirkpatric (55) and their daughter (22), tied them up and ordered them to lie on the floor. The attackers burnt Mr and Mrs Kirkpatric with a hot iron, and kicked and assaulted them with fists. They then robbed a revolver, cash and household appliances, loaded the loot onto Kirkpatric's truck and motor car,

and drove off. The couple sustained minor injuries.

71. M Van Rooyen (31) was awoken by a noise in the house on a farm in Mpumalanga. He took his firearm and went to investigate. He was confronted by two men, one armed with a wheel spanner. Van Rooyen fired one shot at the intruders, who then fled from the house. A large amount of stolen goods were found outside the house. One suspect was later arrested with a bullet wound. He had some stolen property on him.
72. Mr Lekoe was asleep in his house on a smallholding in Mpumalanga when two men entered. The attackers struck him with a firearm on the forehead, whereafter they robbed him of a television set and other appliances. They fled in a vehicle. Lekoe sustained minor injuries.
73. The body of Mr Mathebula (65), a security guard on a smallholding in Mpumalanga, was found on the premises. He had been shot and killed, and two sheep had been stolen. **(Fatality)**
74. Mr Maphanga (29) and his colleagues were guarding the house of a farm in Mpumalanga, when three men approached them and threatened them with firearms. Maphanga's colleagues managed to flee from the scene, but the attackers bound Maphanga with wire and left him in one of the outbuildings. They then forced open the burglar proofing at a kitchen window, entered the house and stole several household items. They returned to Maphanga, robbed his cellular phone, radio and cash and left.
75. Mrs Van Huyssteen was overpowered by two men inside her house on a smallholding in Gauteng. They threatened her with firearms and tied her up. They then took money, electrical appliances and jewellery before fleeing. There were no injuries.
76. Two men forced open the security gate of the house on a smallholding in Gauteng, and overpowered Mrs Brink (79). They strangled and kicked her, demanding money and firearms. The victim informed them that she had not money or firearms, whereafter they robbed a television set, decoder and electrical appliances, loaded it into Mrs Brink's motor car and drove off. Mrs Brink sustained injuries.
77. Mr Jordaan (57), his son (25) and Mr Vorster were in their home on a smallholding in North West Province when six men, armed with handguns, knives and stones, entered. They attacked Jordaan senior and stabbed him on the head. They grabbed a pipe and assaulted Jordaan junior and Vorster. Both sustained injuries to their backs. The victims were then tied up, whereafter the house was ransacked. The attackers robbed a hi-fi set, video machine and clothes, loaded it into two vehicles belonging to the victims and drove off.
78. The daughter of Mr and Mrs Smith (63 and 60 respectively) called the police and asked them to investigate suspicious circumstances at her parents' home on their smallholding in Mpumalanga. When the police arrived, they forced open the gate. They found the house in disarray. Clothes and other items were strewn about. The bodies of Mr and Mrs Smith were found in the bedroom, both with injuries to the head. Several household items had been stolen. **(Two fatalities)**

79. The victims, both blind, were busy on the upper floor of their house on a smallholding in North West Province when they heard a noise downstairs. Mr Kruger (51) went to investigate, and he was shot at by intruders, wounding him in the head and stomach. Mr Van Zyl (30) managed to flee from the house. The attackers robbed three firearms and electrical appliances. When the alarm system was activated the robbers fled from the scene on foot. Kruger was seriously wounded and Van Zyl suffered minor injuries while fleeing.
80. Three men and two women entered the house of Mr Mbambo (37) on a farm in the Western Cape. They opened fire at Mr Sweni (27) and Mbambo's girl friend. Zweni sustained a gunshot wound to the leg. The attackers then went to the bedroom where they fatally shot Mbambo. They threatened his girl friend and demanded money and she handed them some cash. The attackers also took two cellular phones, a television set, video recorder and beer, whereafter they fled in a motor car.
81. Mr Hlungwane was on a farm in Limpopo when three men arrived and pretended to be looking for work. When Hlungwane told them that the owner of the farm was not at home, the men overpowered him, tied him up and demanded money. They cut the back of his heels, apparently to prevent him from seeking assistance. They then broke into the main house and robbed several household items. Hlungwane managed to free himself and he walked to a neighbouring farm for assistance. All the stolen goods were recovered in a township.
82. Mr Naude (50) was overpowered and shot dead at the gate to his smallholding in Gauteng. No other information is available. **(Fatality)**

#### **ANALYSIS OF EXAMPLES**

In the 82 incidents there were approximately 126 victims. (The exact number is unknown.) Fourteen or 11.1% were killed, a little more than the 10.5% average for the whole year. Forty three (34.1%) were injured, the average for the year being 34.6%. In terms of fatalities and injuries it was therefore a very average month. There were six rapes (4.8%), while the average for the year was 5.0%. (There was also one attempted rape.)

Of the 126 victims only 56 (44.4%) were white, which was considerably lower than the annual percentage of 61.6%. The reason may be partly that in some cases a large number of (black) farm workers were present and were also held up while the (white) farmer was being robbed. They were therefore also regarded as victims. Of the 56 white victims, 11 (19.6%) were killed and 26 (46.4%) injured. Of the 68 black victims 3 (4.4%) were killed and 17 (25.0%) injured. Of the 6 females raped, two were white. The phenomenon that a greater proportion of white victims are killed or injured during farm attacks, was detected by the Committee on the basis of other statistics as well, although, as pointed out above, the December figures may be skewed somewhat because of the presence of so many 'passive' black victims in some cases.

In about half of the cases, the victims were overpowered by the attackers inside their own homes or in the immediate vicinity. This happened in the case of 25 'white' homes and 15 'black' homes. There are also certain other recurring scenarios in the examples, that

the Committee came across frequently in other case studies as well, that can be highlighted:

The farmer is ambushed on his return to the farm or smallholding. (See cases 34, 42 and 65.)

The farmer withdraws a large amount of money at the bank and is followed by the attackers and overpowered. (See cases 13, 20, 38 and 49.)

The farmer is attacked in his office where there is a large amount of money. (See cases 6, 12 and 40.)

The security guard is attacked while protecting the farm. (See cases 21, 22, 37, 41, 73 and 74.)

The domestic worker in the farmstead is attacked while her employer is absent. (See cases 11, 29 and 36.)

From the above it is clear that the December 2001 statistics correspond to a large degree with the statistics for the whole year. That is one indication that the examples are a valid sample of farm attacks in general, committed during 2001. It therefore gives an authentic overview of farm attacks in general.

## **CHAPTER 4**

### **CASE STUDIES: DIRECT ATTACKS**

#### **INTRODUCTION**

Because the agricultural societies were instrumental in the appointment of the Committee, they were asked to draw up a list of cases that they wanted to be specially investigated, and especially those cases where the motive might have been something other than mere robbery, and also cases where there was extreme and gratuitous violence. The Transvaal Agricultural Union supplied the Committee with a list of some seventy-seven cases, to which they later added a few more. Agri SA also submitted a number of cases to the Committee for further investigation. Unfortunately the information supplied by the TLU in many instances proved to be inaccurate or insufficient, so that some of the cases could not be traced. Some of the cases were also duplicated. Nevertheless, the Committee went to great lengths to identify each one properly and to consider them individually.

The Committee itself also drew up a list of cases from various sources where the motive was not palpably robbery or where there had been extreme gratuitous violence. As basic reference the Committee used the database of the National Operational Co-ordinating Committee (NOCOC) which, for the years 1998 to 2001, inclusive, has details of more than 3500 cases. This database contains information on the farm attack relating to the date and time, the farm, the town, the names of the victims, their ages, whether they were injured or killed, the number of attackers, attackers killed, injured or arrested, weapons used in the attack, whether firearms, vehicles, cash or other items were stolen, whether any political remarks were made, by the attackers, whether farm workers were involved, whether there were security measures, and particulars of the police docket and investigating officer. The entry also contains a very short summary of the salient facts of the case. The Committee also had at its disposal a large number of newspaper clippings relating to farm attacks stretching over many years. These were also perused individually. Some cases were also extracted from periodicals and other publications.

Upon further investigation a very large proportion of the cases earmarked turned out to be nothing more than ordinary robbery or attempted robbery, albeit often very violent. Nevertheless, from all these sources the Committee made a fairly eclectic and random selection of forty five cases to be studied in detail. They included cases where the motive apparently had not been robbery or where there had been extreme and gratuitous or unnecessary violence, but the list was not limited to those, because that would have skewed the picture completely. The case of a criminal gang causing mayhem amongst smallholdings in the De Deur area was also studied.

The basic information for the case studies was obtained by perusing the relevant police dockets, the files in the offices of various directors of public prosecutions and official court records. The Committee decided to concentrate on cases which had been disposed

of in the High Court. The reason for this was that reliable information on those cases was available in the official court records and in the files at the offices of the various directors of public prosecutions. Objective information could therefore be obtained, untainted by subjective recollections or speculative newspaper reports. In most of those cases the information had been verified in a court of law. In many instances this basic information was then elaborated upon by investigating officers and prosecutors (mostly state advocates). Note was also taken of interviews with victims, perpetrators and other witnesses. However, making a proper case study is very time consuming and expensive, and members of the Committee visited only three centres, viz. Bloemfontein, Pietermaritzburg and Pretoria for that purpose, although several cases from other areas are also included in the case studies.

The selection of a case for the studies can be criticised on three grounds. Firstly, because of the selection procedure, almost all the cases are of very serious farm attacks, many of them resulting in death, rape or serious injuries. It should not be assumed that they are typical of all farm attacks or that all farm attacks are that serious. On the other hand, serious cases are certainly not exceptional either. Furthermore, they are exactly the type of cases which receive widespread publicity and which tend to shape people's perceptions of the nature of farm attacks. The second point of criticism is that the case studies refer to relatively few victims who were not white. In some instances they were also injured, but in only one instance was a black victim actually killed. Again, this was largely the result of the way in which cases were selected. Thirdly, only two (4.5%) of the farm attacks took place on smallholdings, whereas the proportion for all farm attacks in 2001 was 37.7%.

To counteract the problem of creating a skewed picture of farm attacks, the Committee decided also to devote Chapter 5 to examples of farm attacks in general, including the less serious cases. Those also include many examples of cases where the victims were black.

Originally the Committee was hesitant to give full descriptions in the form of case studies of specific farm attacks. Firstly, there was the danger of sensationalizing the subject, since many of the cases are extremely violent and cruel. It is necessary to look at the problem of farm attacks objectively and without becoming influenced emotionally. Secondly, the worst cases sometimes also involved the raping of female victims. In terms of the Criminal Procedure Act, No 51 of 1977, it is illegal to publish the name or indeed such details as may reveal the identification of rape victims, unless they are killed. Apart from the legal position, common decency also demands extreme discretion. Thirdly, many of the victims, and also the perpetrators, were prepared to speak to the Committee only on the express or tacit understanding that their identities would not be revealed.

In the end the Committee decided that it would be the right thing to include a chapter with full descriptions of specific cases of farms attacks. Firstly, it is impossible to understand the emotions and anger created by farm attacks amongst the farming community without looking at the details of specific cases. Secondly, some publications purport to give an overview of farm attacks but in fact give a skewed picture. In the

chapter 'Violent Crime Against Farm Owners' in the Human Rights Watch publication 'Unequal Protection: the State response to violent crime on South African farms', only three cases are described in fairly great detail and another two later in the book. Not one of those cases could by any stretch of the imagination be described as falling within the more serious category of farm attacks. Two murders of farmers are referred to in a 'case study', but only to demonstrate how those murders led to excessive response by the farmers or security companies, and assaults on farm residents and others.

The Committee was also hesitant to publish the names and other particulars of the victims. On the other hand, many cases had received widespread publicity in the media at the time. Furthermore, the court records, where much of the information came from, are public documents. The Committee therefore decided to publish identities and other particulars, except where a live victim had been raped or indecently assaulted. Alternatively the name of the victim of a farm attack may be given, but the fact that she was raped or indecently assaulted will not be divulged. Furthermore, where some of the victims may be unjustly embarrassed, the names are also withheld. Where the victim was killed and her identity revealed during the court case in any case, that consideration falls away. The names and particulars of convicted perpetrators are also given, except where they are minors. The names of suspects not convicted or found criminally responsible at a judicial inquest, are kept confidential.

The Committee interviewed the victims in four of the case studies and gave the undertaking that their identities would not be revealed. Some of the victims in fact do not mind being identified, but the Committee nevertheless decided to keep its original undertaking. Those four cases are therefore discussed in Chapter 6, which deals specifically with the victims and where no names are given.

Finally, it is important to understand the difference between a criminal prosecution and a judicial inquest. The Inquest Act, No 58 of 1959 provides that when any unnatural death has occurred, and there has been no criminal prosecution for murder or culpable homicide in respect of that death, an inquest must be held. Where an inquest is to be held the affidavits in the police docket is normally put before a magistrate for evaluation. He or she may also call witnesses to give *viva voce* evidence. The magistrate then has to decide whether anybody is criminally liable for the death of the deceased, but this is decided on the balance of probabilities. In a criminal prosecution, on the other hand, the guilt of the accused must be proved beyond a reasonable doubt. It therefore happens sometimes that the presiding officer at an inquest brings out a finding that a specific person is criminally liable for the death of the victim, yet that person is not prosecuted or, if he is prosecuted later, he may be acquitted. This often causes great consternation amongst the family and other interested persons.

Some of the cases received widespread publicity in the media and in some cases video footage of gruesome murder scenes appeared on television. They no doubt contributed to some of the perceptions that the farming community has about farm attacks in general.

## CASE STUDIES

### 1 Van Aart: 1991-10-02

Gustav van Aart (age unknown) lived alone on the farm Fleetwood in the district of Wepener in the Free State. On 2 October 1991 he arrived back on the farm at about 18:00. After parking his vehicle in the garage he went to his house. The next morning when the domestic worker arrived she found the doors locked and the curtains drawn. The police was summoned and it was discovered that Van Aart's vehicle was gone, as well as a large quantity of goods, including three rifles and a shotgun, to the value of R20 000. The body of Van Aart was discovered on another farm. His hands were tied behind his back and he had been shot in the face with a shotgun.

His attacker, Thabang Sempe (34) fled to Lesotho. He was arrested in Kroonstad on 7 February 2000, after he had returned to South Africa. He was prosecuted in the Free State High Court on 28 August 2000 and convicted of murder, housebreaking and robbery with aggravating circumstances, for which he received a prison sentence of twenty years, and kidnapping, for which he received five years.

The circumstances surrounding the events were described by the accused himself in a written statement handed in by him at his trial. According to the statement he was hitchhiking a few days before the event when the deceased picked him up with his truck. He sat in front with the deceased because it was raining. They started talking and the deceased made disparaging remarks about the ANC, saying that if Mandela should win the election the 'kaffers' would be in trouble. They spoke in Sesotho.

He then met up with one Moseli and asked him to accompany him to Van Aart's farm so that he could take revenge. That night they broke into the house through an open back window. They found Van Aart asleep, overpowered him and tied his hands behind his back. He argued with Moseli, because the latter wanted to take various articles, whereas he himself only wanted to kill Van Aart out of revenge. Moseli loaded a large quantity of goods on the pick-up. They put Van Aart inside and drove with him to a clump of trees. There Van Aart was told to get out. Moseli had the shotgun with two cartridges, but he, Sempe, took out one because they were in the 'freedom struggle' and had been told to use only one bullet on a person. Moseli then shot Van Aart in the face. He stressed that in the spirit of the 'struggle' he wanted to take revenge on Van Aart for his contemptuous attitude and for calling him a 'kaffer'.

#### Comments:

This was the oldest case investigated by the Committee, dating from 1991. Because the accused had fled to Lesotho, the case was only tried in 2000.

It is one of the very few cases where politics or racial sentiments overtly played a role, although there was also an element of revenge for specific things that the victim had allegedly said. It is difficult to reconcile this with a farmer who gave one of the attackers a lift and told him to sit in front with him in the truck because it was raining.

The deceased was killed execution style and in cold blood.

At the same time a large quantity of goods were robbed. In fact, it is quite a noteworthy feature of almost all cases where the accused alleges that he acted because of some political motive, that large quantities of goods were also stolen. There is a likelihood that in many cases the accused tries to give the case a political or racial overtone in order to evoke sympathy.

Although this case was not typical of farm attacks, it received much publicity for obvious reasons. It is exactly the type of case that is the source of the perception that farm attacks in general are politically inspired.

## **2 Engelbrecht: 1991-12-22**

Willem Engelbrecht (aged 71) and his wife Sophia (68) lived on the farm Grootstry near Verkeerdevlei in the district of Brandfort. The accused, Gabriel Mahakoe (42) started working on the farm at the beginning of December 1991.

Their daughter, Helena Smit (40) lived in Kimberley with her husband and two daughters, Michelle (11) and Elizabeth (12). On Sunday, 22 December 1991, the Engelbrechts went to fetch their daughter and grandchildren for a holiday on the farm. While they were away Mahakoe broke into the house through a window. He armed himself with Engelbrecht's .22 rifle.

When the Engelbrechts returned with their daughter and grandchildren, they noticed that someone had broken in. When they entered the bedroom they were confronted by Mahakoe. Mahakoe shot dead the Engelbrecht couple and ordered Helena Smit and her daughter to climb into the wardrobe. When they could not all fit into the wardrobe he reloaded the rifle and shot dead Helena Smit. He reloaded again and shot at the two girls in the wardrobe, grazing the head of Elizabeth and killing the younger sister standing behind her. Both fell out of the wardrobe and he hit Elizabeth over the head with the rifle butt. He left her for dead. He put clothing and other valuables into two suitcases, loaded it into the Engelbrecht's motorcar and left for Bloemfontein. He left the rifle behind. Elizabeth regained consciousness after he had gone and ran to the neighbouring farm to get help. She was taken to hospital.

The vehicle was traced in Bloemfontein that Sunday evening. The car had been damaged and the number plates removed. Most of the stolen items were also recovered and Mahakoe was arrested. He was tried in the Orange Free State Supreme Court on 21 April 1992 and convicted some months later on four counts of murder, one of attempted murder and one of robbery with aggravating circumstances. He demanded to be tried by a black judge. He was sentenced to death for the murders, and to 12 years and 9 years imprisonment for the attempted murder and robbery respectively. He later received amnesty from the Truth and Reconciliation Commission.

In a confession to a magistrate Mahakoe said that he killed the deceased because the farmer liked calling people 'kaffers'. When he was brought before court on 27 December 1991 he said the following: 'I am guilty. I killed apartheid. I wanted to cut off the hand of apartheid. Unfortunately I only chopped off the fingers. On that day I wanted to shoot dead between 20 and 50 people, but I did not succeed.' He said he also wanted to kill Elizabeth.

### **Comments:**

This was one of the most gruesome cases that the Committee has come across.

The motive given by the accused for killing the farmer and his family was that the farmer had called people 'kaffers' and also that he wanted to kill apartheid. At the same time he also shot a mother and two young daughters that he had never seen before, killing two of them.

Again, in spite of the political motive, the accused stole a vehicle and a large quantity of goods.

The accused demanded to be tried by a black judge.

He later received amnesty from the Truth and Reconciliation Commission.

He was a new employee on the farm, indicating the need for new employees to be properly screened.

### **3 Fourie: 1992-02-12**

Roelof Fourie (aged 70) and his wife Audrey (74) lived on the farm Stormberg near Verkeerdevlei. On 12 February 1992 Fourie was ambushed by four men in a river about 100 metres away from the farmstead and shot dead. His wife, Audrey, was then overpowered in the house. She was assaulted and tied up. The attackers then ransacked the house before fleeing in Fourie's motorcar with clothing, money, two firearms and other items.

The farm workers ran to the neighbouring farm to get help, but it was too late. Although roadblocks were set up to catch the perpetrators, that was unsuccessful.

Hendrik Leeuw, Sebolai Nkgwedi (27), Meshack May and Daniel Mogoda were arrested some time later. They were prosecuted for murder and robbery with aggravating circumstances and duly convicted. Leeuw received the death penalty, which was later commuted to life imprisonment. Nkgwedi was sentenced to a total of 26 years imprisonment. The fate of the other two is unknown to the Committee.

The accused applied for amnesty from the Truth and Reconciliation Commission on 25 March 1997. At the hearing Leeuw said that he and three other members of a task team of the PAC had ambushed Fourie at the gate. He shot Fourie when he got out to open the gate. Leeuw said that he had grown up on the farm. Although he had not born a grudge against Fourie personally, Fourie had been chosen because his Apla commander, which he named, had given instructions that farmers should be attacked and murdered.

At the hearing Nkgwedi testified that he too had grown up on the farm. He alleged that Fourie had treated black people very badly, although Fourie had been selected as a target because he had weapons which could be used in the struggle against apartheid. He said it was the policy of the PAC that farmers occupying the land illegally should be attacked, as part of 'Operation Great Storm'.

Mr. Oupa Kgotle, an Apla ex-commander, testified on their behalf. He confirmed that the Apla commander had given instructions for farmers to be attacked, because they served in the Army and the Police and also contributed to the country's economy.

Comments:

The farmer was ambushed and killed somewhere else on the farm. Thereafter the

attackers proceeded to the house where the wife was overpowered.

This is one of the older cases, where political motives were given for the farm attack. It was not doubt also one of the cases which gave rise to the perception that farm attacks were politically inspired.

The attackers nevertheless robbed not only firearms, but a motorcar and other items as well.

#### **4 Oosthuizen: 1992-04-02**

The six accused were part of a gang of ten men who planned to execute a robbery on the smallholding of one Orsmond near Bethlehem. One, Tsokolo Mokoena (aged 30), had worked on the plot previously. They armed themselves with at least five AK47 assault rifles and two pistols. The morning of 2 April 1992 they went to the plot in a pick-up truck where they reconnoitred the area. They returned in the afternoon and stopped in the road nearby, opening the bonnet of the vehicle. Three of them, Mandla Fokazi (47), Johannes Nxala (32) and Steven Makhura (28), armed with pistols, started walking towards the house; the others pretended to be repairing their truck. A neighbour became suspicious and notified the police.

When Constables Lourens Oosthuizen and Hermanus Joubert arrived and stopped at the truck, the would-be robbers started shooting at them immediately with the AK47 rifles, killing Oosthuizen instantly and seriously wounding Joubert. They took Joubert's pistol and fled.

Fokazi, Nxala and Makhura fled on foot. They were arrested later by a farmer, Bruce Collie, with the help of some farm workers. They were put on the back of his truck. While they were traveling Makhura hauled out the pistol he had hidden and pointed it at the farmer. Collie swerved and stopped. Although the farm workers tried to restrain Makhura, he managed to shoot Collie in the leg and stomach, seriously wounding him. The three then fled on foot into Bohlokong near Bethlehem.

The other attackers fled with their truck. They were pursued by Sergeant Coetzee and Constable Nortje. The robbers at the back of the truck opened fire with their AK47 rifles. When the policemen returned fire the robbers stopped their truck and took cover. There was a shootout with the police, and the robbers again fled in their vehicle. In the follow-up operations by the police two robbers were shot dead. Six were eventually arrested and two fled to Lesotho.

The six accused were tried in the Orange Free State Supreme Court, and the case was finalized on 5 March 1993 when they were all convicted of conspiracy to commit robbery, murder, several counts of attempted murder and of illegal possession of firearms and ammunition. Each was sentenced to six years imprisonment for the conspiracy, life imprisonment for the murder and to long terms for the attempted murders.

Comments:

The case is an example of a large gang armed with AK47 assault rifles who wished to execute a robbery. It is probably one of the cases which have given rise to the notion that farm attacks are carried out with “military precision”. In reality there are very few such cases.

A policeman was killed, possibly as a result of not being alert enough.

The police also displayed great bravery in pursuing the robbers while being fired upon with automatic firearms.

The farmworkers also acted bravely in trying to prevent an armed attacker from shooting their employer.

## **5 Van Niekerk: 1992-08-12**

Cornelius Petrus van Niekerk (aged 86) and his wife Magdalena Elizabeth (85) lived on the farm Denneplaas in the district of Clocolan, on the border with Lesotho. The night of Wednesday 12 August 1992 at about 23:00 the couple were asleep when two men broke into the house by breaking a window, crawling through the ceiling and breaking down an internal door. Mrs. van Niekerk heard the noise and woke her husband. When he opened the bedroom door they were overpowered by two men, demanding money. The attackers severely assaulted the husband and threw his wife against the wall, where she lost consciousness. The attackers opened the safe with the keys given them and stole two rifles, a shotgun, a pistol and a revolver. They also took money, clothing and other valuables before escaping in the farmer’s pick-up truck and a trailer.

When Mrs van Niekerk later regained consciousness she found her husband dead. She was unable to call for help, and was found the next morning at about 06:00 when the domestic worker arrived.

The attackers went to Lesotho, where they later sold some of the booty. One of them was later shot dead by the Lesotho police, and another one was arrested in 1998 and extradited to South Africa to stand trial in the Free State High Court. Although there was fairly strong evidence against him, he was acquitted, probably because of the difficulty in getting witnesses from other countries to come and testify in South Africa.

Comments:

This is one of the earliest cases of which the Committee obtained police records.

The attackers came from Lesotho, and the case demonstrates the difficulties in extraditing perpetrators from Lesotho in the early nineties.

The house was penetrated in spite reasonable security measures by exploiting the weakest link - the ceiling.

## **6 Retief: 1994-08-27**

Cornelius Louw Retief (about 30 years of age) lived on the farm Klipkop in the Weenen district. On 27 August 1994 his body was found on the farm in the vicinity of the house, with hands tied behind his back with wire. Two .32 calibre bullets were found near the body. He had died of a gunshot wound to the neck. He had been shot with a 9mm pistol, probably one that had been stolen during the attack. Half a bottle of brandy was found near the body.

In October 1994 two suspects were arrested after being pointed out by an informer, but there was insufficient evidence to charge them and they were released. There were vague allegations of an assassin (his name is mentioned) being involved. Apparently the deceased had had a dispute with people stealing firewood on the farm. There was also mention of the deceased having had financial problems and the farm was later repossessed, but this seems to be unrelated to the attack.

No other evidence has ever come to light, and a judicial inquest was held in December 1995 to finalise the matter. The person or persons responsible for Retief's death could not be identified.

### **Comments:**

It is clear that the deceased was shot dead execution style, with his hands tied behind his back.

Because of the allegation of the dispute with people stealing firewood on the farm, the Committee wanted to investigate the matter further.

The motive for the attacks is unclear, although the farmer's firearm was stolen.

Because of the length of time that had elapsed, however, very little other information could be obtained.

## **7 Swart: 1995-08-16**

Wessel Swart (aged 52) lived alone on the farm Ouwerf in the district of Kestell. Two men, Thomas Dlamini (35) and Johannes Dlamini (23), went to the farm on 16 August 1995. They were noticed by two employees at about 13:30, and when confronted they said that they were looking for work. The employees referred them to the farmhouse about two kilometres away.

At the house (probably at the back door) they told Swart that they were looking for work. One of them then took out a 9 mm pistol and shot him in the back and arm. He was dragged into the house and tied up with wire. They then took some money and rode off in Swart's pick-up truck.

Although the workers heard the shots they thought that it was Swart shooting birds. They saw the two men driving past in Swart's truck at high speed, however, and immediately

went to the neighbouring farm with a tractor to report the incident. Several farmers as well as the police arrived shortly afterwards, and found Swart in the dining room, bound and heavily wounded. He died soon afterwards.

Two days later Thomas Dlamini hid the vehicle under a canvas at an address at Reitz. The owner there recognized the truck as belonging to Swart and he contacted the police. That led to the arrest of the two Dlamini brothers. Thomas was a police officer, and he later made a full confession. The firearm used in the attack was his service pistol.

The two accused were indicted in the Orange Free State Supreme Court on 15 April 1996. They were convicted of murder and robbery with aggravating circumstances. Thomas was sentenced to life imprisonment for the murder and 18 years for the robbery. Johannes was sentenced to 18 and 10 years imprisonment for the two crimes respectively.

#### Comments:

This is a typical case where the attackers entered the farm on some pretext, in this case ostensibly to look for work.

The employees immediately summoned help when they realised that something was amiss.

Although the attackers had the opportunity to kill off the heavily wounded victim straight away, they tied him up.

## **8 Botes: 1997-02-06**

The deceased, Dr. Sonja Botes (aged 26), was a young medical doctor serving her housemanship at Botshabelo Hospital, Bloemfontein. She lived with her parents on the farm Valencia in the Brandfort district. Her attackers, Jimmy Scholtz and Calvin Eksteen (ages unknown), lived at Brandfort and they used to be employed by Botes's father.

Botes had to travel about 50 kilometers to work every day. On the morning of 6 February 1997 she left for work as usual. When she got to the entrance gate to the farm, she was overpowered by Scholtz and Eksteen, who had been hiding in the long grass next to the gate. She was abducted in her vehicle and driven to a desolate place where she was beaten to death. Her assailants left her tied up in the bushes next to a deserted farm road outside Bloemfontein,

They then fled in her car (a state vehicle), which was later found abandoned. They also took her watch and automated banking card, and withdrew money from her bank account, for which she had given them the pin code number.

The perpetrators were indicted in the Free State High Court for murder and robbery with aggravating circumstances. They were found guilty and both sentenced to 30 years imprisonment.

During the investigation it came to the attention of the investigating officer that the

perpetrators had wanted to take revenge on the father of the deceased because of a dispute between them over work and pay.

Comments:

This case aroused much publicity in the press, because of the ruthless killing of a young doctor.

One of the motives for the attack might have been revenge, although robbery was definitely committed. The Committee is unable to say whether the attackers were justified in feeling aggrieved.

The suspects were well known to the deceased, and one of the reasons for killing her was to prevent her from identifying her attackers. The Committee came across several cases where this was the reason for the murder.

## **9 Gathmann: 1997-03-25**

Werner Gathman (aged 60) lived on the farm Schoonzicht in the Seven Oaks area, Rietvlei. The farmyard was secured with a two metre high fence with razor wire on top. The gate was normally locked, but on the day in question only drawn shut. On the morning of 25 March 1997 Gathman left in his pick up truck. Simon Ntuli (21), Sifiso Ndlovu and a third man (22) went to the farm. One of them approached a worker on the pretext of purchasing cattle from Gathman. He then drew a gun, tied the worker up and locked him in a room. (The worker subsequently heard three shots fired).

The attackers then waited at the gate for Gathman to return. When he returned he stopped his vehicle at the gate, while a worker on the back of the truck jumped off to open the gate for him. The worker saw the armed men approaching, one from the right and the other two from behind, and he ran away. The assailants accosted Gathman and shot him, killing him with gunshot wounds to the neck and chest. The attackers searched the vehicle and removed the deceased's firearm before fleeing.

The third person was arrested first, and led the police to the other two attackers. The police also recovered the firearm used to kill the deceased, as well as the one the accused stole from him. For reasons that the Committee is unable to establish, the charges against the third person were withdrawn. Ntuli was granted bail. While out on bail he attacked another farmer (one Havemann) using the same modus operandi, and he was killed in a shoot-out with the police. There is strong evidence linking him to the murder of another farmer, one Daniels, some months before the Gathmann murder.

Eventually only Ndlovu was prosecuted for the murder and robbery of Gathmann. He was convicted in the Natal High Court in April 2000 and sentenced to a long term of imprisonment.

Comments:

A farm worker was overpowered first and tied up. Another worker ran away unharmed. The attackers, however, had no compunction to kill the farmer. This phenomenon has been found in many cases.

It is not clear why the case against the third accused was withdrawn.

It is not clear why it took three years for the case to be disposed of.

#### **10 Bergh / Meyer: 1997-09-21**

On 19 September 1997 Thys Vosloo (aged 28) broke into a caravan on the farm Goedheid in the district of Vredefort and stole a rifle. On Sunday, 21 September 1997, he gained entry to the house of Oloff Bergh (68) on the farm Annashoek while the latter was absent. He collected several articles, which he put in a carry-all. Bergh returned home at about 14:30 and when he entered the bedroom he was confronted by Vosloo with the rifle stolen previously. Vosloo demanded money. Bergh tried to escape, but Vosloo caught up with him and struck him over the head with the firearm and further assaulted him. He was seriously injured and lost consciousness. Vosloo took the pistol that Bergh had on him.

At that stage Daniël Meyer and his family arrived on the farm. They were confronted by Vosloo and he put the pistol against the stomach of Meyer's young son, Carel, threatening to shoot him. He then tried to flee in Bergh's pick-up truck but he was hit by shots fired by Meyer. He left the truck and fled on foot. The police arrived shortly afterwards and Vosloo was arrested in the veld with the stolen articles.

He was indicted in the Free State High Court on 24 August 1998, and later convicted on two counts of housebreaking and theft, one of robbery with aggravating circumstances, one of attempted murder and two of illegal possession of a firearm. For the robbery and attempted murder he was sentenced to 18 years imprisonment. On the other counts he received lesser periods of imprisonment.

Comments:

This is also a typical case where a firearm stolen previously at another farm was used in a later farm attack.

The movements of the victim were studied beforehand, and the attacker broke into the homestead on a Sunday while the owner was absent. It came out that Vosloo had spied out the movements of Bergh for some days prior to the attack.

It is not clear whether he waited for the owner to return or whether he was surprised.

The prosecuting state advocate indicated during an interview that the motive of the accused was purely criminal.

## **11 Venter: 1997-11-14**

The Venters lived on the farm Blaaukrans, Burgersdorp. On Friday, 14 November 1997, Ansie Venter (aged 35) went to fetch the older children at school. She then took all the children out for lunch. They were Johan (14), Lindie (12), Gerhard (5) and Charlotte (18 months). While they were away the two perpetrators, Mzoxolo Poyo (22) and Andile Frans Lukani (16), broke into the farmhouse and ransacked the house for fire-arms, money and valuable items. Whilst inside the house they also helped themselves to food and alcohol, and smoked cannabis.

Mrs. Venter and the children returned home at about 15:00. As she entered the house with Lindie she was confronted by the men and Poyo shot her in the stomach with her husband's .38 special revolver. She died shortly afterwards in the presence of the children. The younger attacker put the children in the car and drove away, whilst the other one stayed behind at the house. The suspect could not drive and Johan had to change gears for him. When they reached an outpost on the farm the two boys were tied up and locked up in a rondavel (storeroom). The attacker had to abandon the vehicle and he left on foot with Lindie, who was carrying the baby. Johan managed to escape from the rondavel and, with his little brother on his shoulders, ran to a neighbouring farm for help.

By now the alarm had been raised and farmers began hunting for the girls. They spotted them on the farm nearby the river. The suspects panicked when they realised that they were being cornered by the farmers and security forces, and they jumped into the river to escape.

The obvious motive for the attack was theft and robbery. It was well known that the workers' wages were paid on Fridays and that the house was not occupied during the late morning. However, the attackers told Johan that they were "shooting for Patrick", a farm labourer dismissed by Mr. Venter several years before and who was a friend of one of the attackers. They also made racist remarks.

The two attackers were tried in the Eastern Cape High Court on 11 December 1998. Poyo was sentenced to life imprisonment for murder and 12 years for housebreaking and robbery with aggravating circumstances. Lukani was sentenced to 18 years imprisonment for murder and 12 years imprisonment for the housebreaking and robbery, the effective sentence being 20 years imprisonment.

### **Comments:**

This is one of the most horrifying of all farm attacks that the Committee has looked into. The brutality and lack of compassion displayed by the attackers is beyond comprehension. The mother was shot dead in cold blood in front of her children.

The investigating officer is of the opinion that the motive for the attack was self-enrichment and that no political objectives could be proven. It is clear, however, that revenge and racial intolerance played a part in the attack.

It is a typical case where the attackers break into the farmstead when the inhabitants are away (in this instance to fetch the children at school).

The attackers had probably observed the movements of the farmer and his family beforehand.

## **12 Boonzaaier: 1997-11-30**

Nicolaas and Gertruida Boonzaaier (ages unknown) were the owners of the farm De Hoop in the North West Province. On the morning of Sunday, 30 November 1997, they went in to town to attend church and have lunch with friends. While they were away four or five intruders, armed with knives, broke into the house. They gained entry by opening the glass louvre window of the bathroom. They severed the telephone cable and ransacked the house, breaking open various doors. They got hold of a shotgun and a pistol. They ate and drank while waiting for the couple to return. They placed a couch conveniently in front of a window so that they could see when the farmer returned.

The Boonzaaiers returned at about 18:00. Mrs. Boonzaaier opened the garage door for her husband, but when she opened the inter-leading door to the house, she was confronted by the attackers with the shotgun. She tried to close the door, but the attackers were too quick. She ran back towards her husband. One attacker pointed the shotgun at her husband, who told her to run away. She managed to flee and to hide under a farm implement. Mr. Boonzaaier tried to use his own weapon but was shot and killed while still sitting in the vehicle. The attackers loaded the stolen articles, including the shotgun, the pistol, jewelry, diamonds, a CD player, and two suitcases full of articles, onto another truck and tried to get away, but eventually they fled on foot.

After the attackers had left, Mrs. Boonzaaier found her husband lying beside the vehicle. Together with two farm workers she ran to the neighbouring farm for assistance. A large number of farmers and the police converged on the farm and two of the attackers were arrested in the maize fields nearby the same evening and most of the stolen articles were recovered. Two were arrested later.

David Masilo (18), Frank Masilo (24), Joseph Tshabalala (19) and Simon Metoa (18) were indicted in the High Court, Transvaal, on 10 May 1999 on counts of murder, robbery with aggravating circumstances and illegal possession of firearms and ammunition. The first three were convicted on the charge of murder and each sentenced to thirty years imprisonment. For the robbery Frank Masilo received fifteen years imprisonment and the other two ten years each. Metoa was convicted of the robbery only. Comments:

The attackers came from two nearby villages. Their ages varied between 18 and 24. It turned out that one of the attackers, Frank Masilo, had either worked on the farm previously or had a relative living on the farm.

One of the attackers told the police that they had gone to the farm to get money and diamonds. It must therefore have become known that the farmer kept diamonds on

the farm.

The attackers went to the farm on a Sunday while the occupants were in town to go to church. This is a typical *modus operandi* of attackers.

The dogs on the farm were very tired and subdued when the owners arrived, possibly from a confrontation with the attackers. They might also have been drugged, as has happened in other cases. (One of the accused told the police they had been worried about the dogs, but it is not clear how they overcame the problem.)

The house was fairly secure with internal security gates. The attackers gained easy access to the house, however, by means of a louvre window at the back. Other cases also demonstrate the ineffectiveness of louvre windows against intruders.

The attackers obviously waited a long time for the owners to arrive, eating and drinking. The motive for this was probably to get information from the victims or to open the safe.

The farmer was shot dead without any hesitation. He was shot with his own weapon. It is unknown whether the weapons (or the jewelry) had been properly secured.

There was a speedy arrest. The prosecution was successful and heavy sentences were imposed. The case was finalized only some eighteen months after the attack.

Both the investigating officer and the prosecuting state advocate were interviewed by Committee members. They were of the opinion that there were no political motives involved, and that the main aim was robbery.

### **13 Van Rensburg: 1997-12-20**

Francois Janse van Rensburg (aged 27) lived in a flatlet on the farm Komkommerhoek in the Steynsburg district. He was employed as a foreman by a neighbouring farm. On Monday, 22 December 1997 he was found dead on the floor of his flatlet. He had been tied up, stabbed and his chest staved in with a heavy object. The attackers gained entrance to the flatlet by breaking a window and waited for the deceased to return home. He arrived back at about 19:00 and the evidence shows that there was an intense and violent struggle before he was overpowered by his assailants.

The deceased's legs were tied with rope and his face was covered with a cloth. It was later discovered that the deceased had been attacked with an iron pipe and that he had also sustained multiple stab wounds to the body. The telephone had also been disconnected. The attackers took the several items, namely a video machine, microwave, hi-fi system and clothing, and fled the scene in the deceased's truck.

The two attackers were arrested in Kimberley after a breakthrough with the assistance of the media. Police followed up information after somebody reported that a bakkie with the same description they had read about was seen in Kimberley. The two, Petros Fose (28) and Samuel Bunta (23), were stepbrothers and both hailed from Kimberley. Fose worked as a worker on a farm which is about 10 kilometres in distance from the farm

Komkommerhoek. He usually made deliveries on Komkommerhoek and knew the set-up of the farm quite well. It also emerged during their questioning that the two suspects had observed the movements of the deceased from their hiding spot, situated at a nearby shed, for two days prior to the attack.

The two attackers were indicted in the High Court, Eastern Cape, and convicted on 14 December 1998. Fose was sentenced to 19 years for the murder and 10 years for the robbery with aggravating circumstances. Bunta was sentenced to 24 years and 12 years imprisonment for the two crimes respectively.

#### Comments:

This is also a case where the perpetrators gained entry in the absence of the farmers and waited for him to return.

The victim was probably killed to avoid identification, because he knew at least one of the attackers.

The investigating officer is of the opinion that the motive for the attack was self-enrichment.

#### **14 Van Vuuren: 1998-01-16**

Daniel van Vuuren (aged 43) lived on the farm Wilgerpoort in the district of Balfour. Johanna van Zyl (33), her young child and her mother, Johanna Pieterse (80), also lived on the farm.

The morning of 16 January 1998 at about 07:00 at least four attackers went to the farmstead. They entered the house, armed with firearms and knives. Van Vuuren was up already, although the other inmates were still in bed. When he saw the attackers he ran back into the room where van Zyl was and tried to close the door. The attackers pushed open the door. The woman grabbed her child and ran to another room and locked the door. The attackers then shot Van Vuuren dead.

They kicked open the other door to the room where van Zyl and her child were. One with a knife stabbed Van Zyl in the shoulder and demanded money. She gave him the money but was stabbed again. She then went to her mother's room where she gave them R300. They demanded the keys to the safe in the room, whereupon she unlocked the safe. They took a rifle and revolver. They also demanded money from Pieterse and slapped her through the face. They took Van Zyl out and demanded more money, and when she said there was no more she was stabbed again and hit over the head with the firearm. She was stabbed again and her hands tied with the telephone wire. They then robbed cash, a rifle, a revolver watches and other valuables before fleeing. They ran in the direction of the kraals on the farm.

A house servant, Pauline Maseko heard the shots and informed the other employees. They went to a neighbour, one De Wet, who armed himself and went to Wilgerpoort. He

also summoned other farmers in the area by radio and also requested them to get the police. A large group of farmers, policemen and commandos arrived on the farm very quickly and there was a shootout with the attackers, during which more than two hundred shots were fired. Sgt. Lehlohonolo Zondo was killed, shot in the head, and Const. Kijimani Masangane was wounded, shot in the shoulder. Three of the attackers, including the one who had shot the two policemen, were also killed. They were Thulani Mwelape, Khombi Ngobese and Bongumusa Ndlovu.

Wilson Dlamini (40) was indicted in the High Court on 19 April 1999 for murder, robbery with aggravating circumstances and illegal possession of firearms and ammunition. He was convicted and sentenced to imprisonment of fifty, twenty, two and one years on those counts respectively.

#### Comments:

The case is especially noteworthy for the fact that so many people died: the farmer, one police official and three robbers.

During an interview with the Committee the investigating officer described the scene as 'absolutely chaotic'. More than two hundred rounds of ammunition had been fired.

The attentiveness of the employees and the quick reaction time of the farmers, police and commando are noteworthy.

There are indications that one of the attackers was shot after he had been arrested. This is the subject of a formal judicial inquest at present. Because of the large number of people involved it will be difficult to establish exactly what happened.

The prosecuting state advocate is of the opinion the motive for the attack was purely robbery. This is confirmed by the investigating officer.

#### **15 Nkabinde / Greyling: 1998-02-25**

Elias Nkabinde (aged 50) was a farm worker employed by one Greyling (72) on the farm Driehoek in the Bethal district. Greyling lived alone in the house. They were attacked on 25 February 1998, Nkabinde being killed and Greyling injured. It is not clear what happened because Greyling suffered loss of memory as a result of the attack and has become quite feeble. He has since moved from the farm. From the available information the events can be reconstructed as follows:

On 25 February 1998 at about 16:30 Greyling came from the fields where he had been cutting grass with the tractor and mower. After he had stored the tractor he was attacked by two men about thirty metres from his house. He was assaulted and tied up very tightly. He was tortured by dripping burning plastic on his legs, probably so that he would open the safe and hand over valuables. A .38 special revolver was taken, but a shotgun and a .22 rifle was left behind. The house was ransacked but it is not clear whether anything else was taken. The telephone wire was cut. It is not clear whether the attackers had gained access to the house first. There was very little security and the house was not burglarproof.

When the police arrived on the farm they went to the living quarters of Nkabinde. There they found him hanging from the rafter by the neck. He had been strung up with a piece of wire. His hands and feet were also bound with wire and his house was also ransacked. He too had been severely assaulted. It is not clear whether he or Greyling was attacked first. There can be no doubt that the two attacks were connected. Nkabinde might have been attacked to prevent him from raising the alarm or because he knew the attackers.

No one has been arrested for the attack.

Comments:

This case is noteworthy especially for the fact that the farm employee was killed in a gruesome manner. The reason for his killing remains unknown but it might have been for a variety of reasons, such as to incapacitate him or to get information out of him or to avoid identification.

It is not common for a farm worker to get killed during an attack on a farmer. The usual pattern is for the worker to be tied up. (The Committee has come across several cases where black security guards or night watchmen were killed.)

It is also an example of an attack on an elderly farmer living alone.

## **16 Marais S.: 1998-03-16**

The victim, Sheila Marais (aged 56), lived on the farm Newlands near Warmbaths with her husband Peter and son Rodney. On 16 March 1998 Peter Marais left for Warmbaths, leaving his wife behind. Later Sheila Marais also left in her motor car to do shopping in town. When Peter Marais returned around 16:00 he found the car of his wife near the farm gate. The doors were open and his wife was dead inside, shot through the heart. Carry bags - his wife's purchases - were strewn all over. Her handbag with credit cards, purse and other items were missing.

Elias Kekana (24) was arrested at Temba, Hammanskraal, the very next day. The handbag, credit cards and some of the other stolen items were also recovered. Neo Josiah Pine (39) was arrested a few days later. Blood belonging to the deceased was found on his overall.

While in jail Kekana told a fellow prisoner that he had shot a white woman and that the vehicle then collided with a tree. He then again fired several shots at the woman, one of which accidentally hit his friend in the arm when he tried to remove the handbag from the car. In court Pine testified that they were walking along the road when the woman stopped and asked them what they wanted. Kekana then pulled out a firearm and fired a shot. The vehicle started moving with Kekana clinging to the door.

There were in fact spinning marks on the road, indicating that the victim had tried to speed away. In all probability, therefore, the victim stopped to enquire what the

perpetrators wanted. When one took out a firearm she tried to speed away, with the man still clinging to the door. She was shot, causing the car to stop or collide. Her attackers then rummaged through the grocery bags and then left with her handbag.

Both accused were indicted in the Transvaal High Court on 17 August 2000 on counts of murder, robbery with aggravating circumstances and the illegal possession of a firearm and ammunition. Kekana was convicted and sentenced to life imprisonment for the murder and 12 years imprisonment for the robbery. Pine received 18 years and 8 years respectively for the two offences. Kekana was also convicted for the illegal firearm and ammunition.

Comments:

This is a fairly typical case where the victim was attacked at the farm gate.

Kekana has a long list of previous convictions, mostly theft and burglaries. While in prison he also told a fellow prisoner that he had committed another murder before.

During an interview the prosecuting state advocate said that there was no indication of a motive other than robbery. This was confirmed by the investigating officer. In fact, during the trial the Court found that the accused went to the farm in order to commit robbery.

## **17 Ronaldson: 1998-03-16**

Dave Ronaldson (aged 68) and his wife (65) were retired and lived on a smallholding near Old Wartburg Road, Pietermaritzburg. They were negotiating the sale of their property and were expecting a visit on the day of the attack, 16 March 1998, from a man who was interested in purchasing it. With the intention of robbing the couple the accused, Silindilo Ngcobo (19), Mfanafikile Mseleku (28), a youth of 16 years and a fourth person proceeded to the property, armed with a pistol. Ronaldson saw someone outside and, thinking it was the expected visitor, opened the door and was shot dead in cold blood by the accused. Mrs Ronaldson ran outside, but was forced back inside, taken to her room and assaulted by one of the suspects, who wanted firearms and cash. The attackers started looting the house. Mrs Ronaldson managed to get hold of her revolver and started shooting at the suspects, hitting Ngcobo in the chest. The attackers then ran away with some of the loot.

Ngcobo had the bullet in his chest removed by a doctor at a local hospital-clinic. His fingerprints were also found on the scene of the attack. He and the three other accused were all arrested. A stolen clock radio was recovered, as well as the pistol used in the shooting.

One of the attackers escaped from prison in October 1999 before the case could commence. Mseleku turned state witness and the charges against him were withdrawn. The other two were indicted in the Natal High Court in March 2000 on counts of murder, robbery with aggravating circumstances and illegal possession of a firearm and

ammunition. They were convicted and for the murder Silindilo Ngcobo was sentenced to 23 years imprisonment and the younger accused to 15 years imprisonment.

Comments:

The Committee interviewed the two accused in prison. Despite one of them having actually been shot during the incident, they both deny their involvement in the attack vehemently.

The accused that escaped from prison had relatives at the nearby Swapo informal settlement, where they might have obtained the necessary information for the attack.

The farmer was shot dead in cold blood, but the motive of the attackers seems to have been purely robbery.

**18 Marais D: 1998-05-12**

Daniël Marais (65) lived with his wife, Maria Magdalena Marais (64), and their grandson (7) on their farm Marydale at Oppermansgrond in the district of Koffiefontein. The perpetrator, Hendrik Jemi Spieël, was employed on the farm by Mr. Marais, and he used to have his meals with them. Spieël was arrested for a murder committed in Luckhoff, a neighbouring village. He was granted bail and he phoned Marais, asking him to pay his bail. Marais paid the bail and, after being released from prison, he went back to the farm where he worked.

After they had had supper on the evening of Tuesday, 12 May 1998, Spieël told Mrs. Marais that her grandson was feverish. She went to the bedroom where her son was in bed, leaving Spieël and her husband in the dining room. Spieël took a knife and stabbed Mr. Marais to death. Mrs. Marais came to her husband's assistance, and managed to push Spieël out of the house. She then locked herself and her husband in a room, but Spieël broke down the door. He overpowered Mrs. Marais and assaulted her.

Spieël then took off his bloodstained clothes and burned them. He cut the telephone wire and also burned out the telephone. He then took two watches, R900-00 in cash, clothes and drove off with the family's vehicle. He was arrested the next day near Vanwyksvlei, when he overturned the vehicle.

Spieël was indicted in the High Court, and on 10 October 1998 he was convicted of murder, housebreaking with intent to rob and robbery with aggravating circumstances. He was also convicted for the murder committed at Luckhoff. The presiding judge declared Spieël to be a dangerous criminal and he was given an indeterminate sentence of which a minimum of 25 years imprisonment was to be served. He is serving his sentence at Grootvlei Prison, Bloemfontein.

Comments:

The victims as well as the perpetrator were coloured persons.

This is a borderline case of a farm attack, since the perpetrator was being treated as part of the family. The Committee includes this case because it was one of those referred to it by the Transvaal Agricultural Union.

The prosecuting state advocate as well as the investigating officer were interviewed by the Committee. They are of the opinion that the crimes were the result of common criminality on the part of Spieël.

## **19 Delafield: 1998-05-15**

The Delafield couple, Donne Delafield (aged 62) and his wife, Verina (52) lived on the farm Leeupoort near Rustenburg. Donne Delafield was a cripple and walked with the aid of a walking frame. Verina was last seen alive the morning of 15 May 1998, when she bought a newspaper at a shop in town. When a domestic worker went to their home the morning of the 17<sup>th</sup>, there was no answer. She reported it to the father of Verina who lived nearby on the same farm, and he went to investigate. He found both of them killed. Donne Delafield was lying in the passage, stabbed to death, and his wife was in the bedroom, hit over the head with a fire poker. Their watches, jewelry and a pistol had been stolen. Mrs. Delafield had also been raped.

Two notes written by the attacker were found in the house, addressed to 'Mr. Mandela'. A notepad in the dining room contained the following words: 'Viva Apla. Mr Mandela think about the political prisoners. Released all Apla cadres and fair integration into SAPS and correctional services. Zimberi and co. Don't forget Benoni six month child.' The following had been written in an exercise book found in the bedroom: 'Fair integration for all. Release all Apla cadres. Carl Zimberi. Released all Apla cadres Mr Mandela. Fair integration. Viva Apla.'

As a result of information given by an informer, Elias Molefi (28) was traced in Carltonville on 16 July 1998 and arrested. He was connected with the attack by means of forensic evidence, such as fingerprints and DNA comparisons. He was indicted in the High Court, Transvaal, on 26 February 2001 and sentenced to life imprisonment on each of the murder counts and to 18 years imprisonment for the robbery and 20 years for the rape.

Molefi pleaded guilty at the trial and no evidence was lead. It is therefore not clear exactly what had happened, but he did tell the investigating officer what had taken place. According to the information he went to the house after Mrs. Delafield had left, and he attacked and killed her husband. He then waited for Mrs. Delafield to return, eating, drinking and smoking. When she arrived, she was also attacked, and then raped and killed.

### **Comments:**

The perpetrator was 28 years of age and lived in Krugersdorp. It seems that he was related to the domestic worker and that he obtained information that way.

He waited till Mrs. Delafield had left and then attacked the near helpless Mr Delafield, who was a cripple and 62 years of age. It is obvious that he had observed their movements carefully.

He then waited for Mrs. Delafield to return, whom he attacked, raped and killed.

He was only arrested two months later. The value of informers to assist the police in this type of situation is clearly demonstrated.

Carl Zimberi was one of the attackers involved in the St James Church massacre in Cape Town.

The 'Benoni six month child' was probably the black baby killed by a ricochet bullet when a white smallholder fired shots in the direction of a girl walking across his property with the baby.

During the trial the accused wanted a black judge.

This is one of the few later cases where any political or racial views have been expressed overtly. There was a call for the release of all Apla cadres. Molefi had been a member of APLA and had been integrated into the SAND, but was later dismissed.

## **20     Barkhuizen: 1998-05-26**

The Barkhuizens lived on the farm Fern Arbor near Muden. They managed the farm on behalf of the owner. On 26 May 1998 three men entered the farm premises at around midday and kept the house under observation. When they observed Mr Barkhuizen leaving the house (he was going to the orchard to chase some thieves away), two of the intruders, one of whom was armed with a 7,65 mm pistol, entered the farmhouse while one kept watch outside. Mrs Dawn Barkhuizen (aged 54) was then held at gunpoint, and her assailants took a hunting knife and a pair of binoculars. Mrs Barkhuizen attempted to escape and ran out of the house, but was caught by the assailants. One of them fired shots at her, fatally wounding her in the abdomen and chest. The three attackers then fled the scene.

The police arrested two suspects on 12 June 1998. They lived in the same area, about two kilometres away. One of them, Fanalakhe James Mzolo (24), had a 7.65 mm pistol and some ammunition. A ballistics expert linked the pistol to a 7,65mm cartridge found at the scene of the murder. (A bullet head recovered during the post mortem examination was mislaid and could not be tested.) A knife similar to the stolen one was found at the home of the second suspect, Bongumusu Eric Khumalo (18), but it could not be positively identified by Mr Barkhuizen.

The charges of murder and robbery against the two suspects were withdrawn, apparently on the grounds that the pistol was found too long after the event. Also, it would seem that a vital witness recanted on his statement to the police. Although Mzolo was prosecuted for the illegal possession of a firearm, he was acquitted on 13 October 1999 on the grounds that his version could reasonably be true. (This might indicate that a prosecution

on the murder and robbery charges would probably have failed as well.) At a judicial inquest held at Greytown on 12 November 1999, however, the presiding magistrate found that Mzolo and Khumalo were responsible for the killing of Dawn Barkhuizen. (It should be pointed out that the burden of proof at a criminal trial differs from that at an inquest. )

Comments:

This case is one of several examples where the wife was attacked after the farmer had gone out.

The wife was shot while attempting to flee. It served no purpose to kill her since the gunshot alerted the farmer in any case.

Nevertheless, while it demonstrates the callous nature of many farm attackers, it cannot be said that the motive was anything other than robbery.

**21 Vermaak: 1998-10-05**

Daniel Vermaak (55) left his house on the Barlow Combine State Farm near Hluhluwe on 1998-10-05 at about 08:00. While driving in his bakkie near the gate about 300 metres away from his home he was shot through the windscreen by two attackers. Although heavily wounded, he continued driving and he radioed his wife for help. Vermaak's vehicle stalled about 1,5 km from where he was shot. When the police and paramedics arrived they found Vermaak still alive and conscious, but he died soon afterwards.

There were two attackers, but no one has been arrested. The weapon that fired the AK47 cartridge found at the scene could not be traced. A bag with an overall which might have belonged to the man who had shot Vermaak, was also found near him, but forensic examination failed to produce any useful results.

Comments:

The attack is described in the media, quoting the then KwaNalu president, as an attempted hijack. However, according to information in the police docket there were allegations that someone working for the deceased had said there was money in the house, and that one of the suspects worked on the farm.

There was also a suggestion of possible labour problems. There is a letter in the police docket, written in July 1998 by the trade union UWUSA, referring to a certain employee on the farm, and asking that the farmers and workers should please respect each other. (The letter lacks specifics, it is couched in very general terms.)

The farm which the deceased managed breeds Nguni cattle, and there is also a suggestion that stock theft suspects might be involved in the attack.

This is another example of an attack taking place at the farm gate.

**22 Roos: 1998-10-31**

The Roos couple lived on the farm Coerland in the district of Fouriesburg, on the border with Lesotho. Colonel M.W.O. Roos was 65 and his wife, Annetjie was 60. They were attacked and killed on their farm on 31 October 1998 by the Tsoenyane brothers. The Tsoenyane family came from Lesotho.

The attack was planned some time beforehand by the Tsoenyane gang. The evening of 31 October 1998 they went to the farmstead, where they gained entry to the house. There the Roos couple were shot dead with a shotgun at short range, execution style. The house was plundered and a quantity of goods, including a rifle and a .38 special revolver, were taken. The tragedy was discovered the next morning by one of the workers who went to investigate.

The attackers fled back to Lesotho, but attempts to extradite the attackers to South Africa failed. Two of the brothers, Ramaketsi Tshoenyane (18) and Maketi Tsoenyane (25) were arrested, however, when they again entered South Africa. They were indicted in the Free State High Court on 5 August 2002 and convicted on two counts of murder, one of housebreaking and robbery with aggravating circumstances and also for illegal possession of firearms and ammunition. For the murders the elder brother was sentenced to two terms of life imprisonment and the younger one to fifteen years on each count. For the housebreaking and robbery they received fifteen and ten years imprisonment respectively.

#### Comments:

The case received much publicity, because of the prominent position that the Roos couple occupied in society.

The accused were part of a gang operating from Lesotho. They were suspected of having carried out other farm attacks as well.

The case demonstrates the need for extradition arrangements with neighbouring countries.

It is an example of an execution style killing of the victims, which is not exceptional.

### **23 Redinger: 1998-12-07**

Friedel Redinger (aged 49) was the owner of the farm Dalumbe near Kranskop. Two of his attackers, Nkosikhona Gasela (21) and Thembelani Sibiya (21), lived in the Kranskop area and the third one lived in Mapumulo nearby. Some time before the incident they decided to rob the deceased of his pick-up truck and other valuables and, realising they might have to use force, armed themselves with, *inter alia*, a homemade shotgun.

On the morning of 7 December 1998 Redinger went to collect firewood from a plantation. The three attackers hid near the farm road along which the deceased had to return to the farmstead. When he came past at about 12:00 they stopped him, forced him out of his vehicle and shot him in the back of the head at close range. He died instantly.

The attackers left the scene in the deceased's vehicle and drove to Entombeni, where they took the deceased's cellular telephone, a radio/cassette player and a farm radio before abandoning the vehicle. The homemade firearm was retrieved on 11 December 1998 from an address in Entombeni, where it had been left by the accused. The other stolen items were also recovered.

The attackers were arrested with the assistance of informers. One escaped from custody but Gasela and Sibiya were indicted in the Natal High Court of murder, robbery with aggravating circumstances and unlawful possession of a firearm and ammunition. They were both convicted and sentenced to life imprisonment for the murder.

Comments:

According to information gathered by the police there was a land dispute around the particular farm. Allegedly occupants on the land were unhappy about the owner wanting to convert the farm to a nature reserve, saying the land belonged to them. According to hearsay, however, a local *induna* had said that he wanted the land.

There was also mention of a possible dispute over the wages of the farm workers. (The previous owner of the farm had also been attacked, although the Committee does not have details of that.)

According to other information received from an informer of a security firm used by the farmers in that area, it was alleged that R25 000 had been collected for the assassination of the farmer and that the attackers were part of a gang known as 'Amadogy dogy'. The name derives from an African-American criminal gang in New York under leadership of the Shakur brothers, Tupac and Snoop Doggy Doggy. It was further alleged that a note with the words '2 Pac and ama dogy dogy' was found near the scene of the attack on Redinger. This information is doubtful, however, since the police did not find such a note.

After his arrest, however, Gasela told the police that the motive for the attack was robbery, and had nothing to do with land claims. In his statement he confessed to having shot the deceased, which was corroborated by a statement of the third accused. (During an interview with Gasela by the Committee in prison, he claimed total innocence).

At a bail hearing Gasela, in response to a question from the court, said he had stayed near Dalumbe some seven years previously and had known Redinger but hadn't worked for him. He said he had had no quarrel with Redinger and had not experienced ill treatment by Kranskop farmers. The prosecutor said there was a witness in the cells who claimed that Gasela had told him that he wanted bail so he could kill more farmers.

This is another example of a farmer being ambushed while driving along the farm road.

Maurice Souchon (aged 65) together with his wife and son, lived on the farm Chiselhurst near Mandeni. At around midday on 22 December 1998, while the Souchon couple were out, three attackers, two of whom were wearing balaclavas, overpowered the Souchon son and the domestic workers and held them hostage. When Mr Souchon and his wife arrived back home, they were confronted. Maurice Souchon raised his hands to protect his wife, but was shot and wounded and, after falling to the ground was shot dead, execution style, in the head. A cellphone, wallet, purse, and R50 in cash were stolen.

Bongani Simon Mthembu (25) and Bongani Siyabonga Mhlongo (21) were later arrested. Apart from the fact that accused Mthembu had passed on the stolen cellphone some months after the attack, the case against him rested on a confession he had made after his arrest, in the presence of the then commander of the investigation unit. The second accused had also confessed, but this time in the presence of a magistrate. At the High Court trial the two accused claimed that the confessions had been made under duress after being assaulted by the police. After a trial-within-a-trial as to the admissibility of the confessions, the Judge ruled that they could be accepted. Both accused were found guilty and each was sentenced to life imprisonment for the murder and 30 years each for armed robbery.

#### Comments:

The third man involved in the attack has never been found.

The trial judge commented that under the Criminal Law Amendment Act he was obliged to hand down a life sentence but, had his hands been free, he would have sentenced the men to no less than 60 years imprisonment. He directed that his remarks be recorded and placed in the convicted men's prison files.

The investigating officer in this case is adamant that the motive was robbery.

## **25 Van der Merwe J: 1999-01-03**

Jacobus van der Merwe (aged 62) and his wife Elsie (58) lived on the farm Oskraal, Bethlehem. On Sunday, 3 January 1999, at about 13:00 they were attacked in their home by four men.

According to confessions made later by two of the attackers they had gone to the farm by motor vehicle, but they left the vehicle some distance away and went the last distance on foot. They had knives, an iron bar and rope with them. They knocked on the door and when Mr. van der Merwe opened he was overpowered. He was severely assaulted with an iron bar and tied up. He was taken to the bedroom where his wife was taking a nap. There she was also hit over the head with the iron bar, kicked and hit in the face. When she tried to grab the iron bar she was hit over the head again. She was tied up and her husband kicked and hit again with the iron bar. The attackers demanded money and firearms, and she showed them the key to the wardrobe. She was assaulted again, and they demanded the key to the safe, which was opened eventually. The attackers took two pistols, money and other valuables. They also smashed the telephone.

At that moment two domestic workers arrived. (Their names are unknown to the Committee.) They were held at gunpoint with one of the pistols and brought to the bedroom where they were blindfolded. Mrs. van der Merwe was assaulted again and she lost consciousness. They were then locked in the bedroom. The attackers took the booty and fled in the Volkswagen Kombi. After they had left, the employees untied Mrs. van der Merwe and she went for help on a neighbouring farm.

Mr. van der Merwe was taken to the hospital. He never recovered consciousness, however, and passed away on 21 January 1999.

Four accused were arrested several months later. They were arraigned in the Free State High Court from 3 to 21 September 2001. Three accused were found not guilty due to lack of evidence. Their confessions were obviously found to be inadmissible. There was better evidence against the fourth accused but he passed away before the case could be finalized. He had been on the farm previously to buy biscuits from Mrs. van der Merwe. The fifth suspect was well-known since he had worked on the farm previously. He had problems with Mr. van der Merwe over wages and he had threatened the farmer. He was never arrested, however, since he came from Lesotho.

#### Comments:

One of the attackers had previously worked on the farm and had a dispute over wages. He had threatened the deceased.

One of the attackers had been on the farm a few days before to buy cookies.

Possibly not enough care was taken by the farmer when he opened the door.

This is another example of a case where the farmer and his wife were seriously assaulted, but the domestic workers were left unharmed.

## **26 Steyn: 1999-01-20**

Alexander Steyn (aged 73) and his wife Petlana (67) lived on their farm Fort Weber in the Christiana district in the North West Province. On 1999-01-20 at about 18:30 the couple were outside their home when they were approached by four attackers. The attackers suddenly overpowered them, hitting them over the head and stabbing them. They then dragged the victims back into the house. The attackers took some money and other items, after which they poured out petrol in the house and over their victims and set them alight. Mr. Steyn died of burns and brain injuries, while his wife mercifully died of brain injuries and a stabwound of the neck. The house burnt down and the bodies were charred.

The attackers left in the couple's station wagon, which they later abandoned. One of the farm hands saw them leaving and reported to a neighbour. When help arrived it was much too late, however: the house was still burning, but both Steyns were dead.

The attackers were arrested the following day. They were Mathew Sebeya (19), Kenneth Keohlilheyse (19), Jerry Sibitso (19) and a 15 year old youth. The farm hand partly identified them. The fingerprints of some of the attackers were found in the motorcar, and some also had stolen goods in their possession.

The accused were tried in the Transvaal High Court from 16 to 27 October 2000. They were convicted and the three older ones received similar sentences, viz. 25 years imprisonment on each of the two counts of murder and 15 years for the robbery with aggravating circumstances and arson respectively, i.e. a total of 80 years.

Comments:

The attackers all came from a township at the nearest village. Three were 19 years of age and one only 15.

They were arrested speedily. There was a successful prosecution and the attackers all received very long periods of imprisonment. The case was finalised 21 months after the attack.

The two victims were elderly persons, who were clearly unable to put up any resistance against four young men. It can be assumed that the murders were completely unnecessary.

The purpose of the fire is unknown, although it might have been to destroy fingerprints or other clues.

The prosecutor said during an interview with the Committee that, although the attack was particularly brutal and cruel, there was no political motive involved. The accused went to the farm to steal money.

**27 Van der Merwe G.: 1999-02-28**

Gert van der Merwe (aged 76) and his wife Francina (73) lived on a plot in Rietvallei, Naboomspruit. One attacker, Phineas Sibanda (22), worked for them and the other, Morris Ncube (29), was employed by their neighbour. Both employees were illegal immigrants from Zimbabwe. They were friends and frequently visited each other.

The Van der Merwes went to church on Sunday 28 February 1999. While they were away the two accused and a third person broke into the homestead by climbing through the roof. They cut the telephone wire. They then ransacked the house and stole a large quantity of clothing, jewelry, video machine, etc., which they hid in the bushes nearby. They also found a revolver, and then waited for the couple to return.

The Van der Merwes returned at about 20:00. Mrs. van der Merwe got out of the car. While Mr. Van der Merwe was parking the car in the shed one of the attackers ran up to him and shot him twice, in the shoulder and chest. Then his throat was slit. Francina was assaulted and raped, and then her throat was also slit. (Ncube told the police that they had demanded money from her, and she was killed when she said the money was in the

bank.) Mr. van der Merwe was then carried into the house. They were both covered with a carpet. The attackers then fled with some of the articles hidden outside. They sold some of the articles to workers on farms in the vicinity before fleeing to Zimbabwe.

Some of Sibanda's own clothes were also found inside the house, where they obviously had been changed for stolen clothing. Some of the stolen articles were found some 800 meters from the house. Amongst the clothing was a diary belonging to Morris Ncube. Some stolen articles were also found in an outbuilding. There was also a piece of cardboard with a message which read: 'To you old man we are robbers from Johannesburg at your son's business. Luck is on your side because our intention was to kill you. You are a person with evil motives because long back you oppressed black people too much. Wages of sin is death.'

Sibanda and Ncube were the obvious suspects, but they were nowhere to be found. Sibanda was arrested in Zimbabwe on 9 March 1999 and Ncube was arrested on 11 March 1999, also in Zimbabwe. They had a large quantity of the stolen articles in their possession. Ncube told the police that Sibanda had insisted that they kill the woman so that they could not be identified.

The accused were tried in the High Court from 1 to 7 March 2000. They were convicted on two counts of murder, for which life imprisonment was imposed, as well as robbery with aggravating circumstances, for which they received 12 years. Sibanda was also convicted of rape and sentenced to 20 years imprisonment.

#### Comments:

This is one of the few cases with overt political elements, viz. the message left by the attackers. However, the prosecutor told the Committee that there was no political motive behind the attack.

This was confirmed by the investigating officer. The accused told him that the comments on the piece of cardboard found after the attack had been intended to mislead the police so that they would be looking for the culprits in Johannesburg.

It is a typical case where the attackers broke into the house on a Sunday while the inhabitants were away attending church. The attackers waited for the victims so that they could get more money from them.

The victims were probably killed to prevent identification.

The Zimbabwean police gave their full co-operation in tracing and arresting the accused and in the subsequent extradition.

Taking into account that the accused had to be extradited from Zimbabwe, the case was heard fairly quickly, some 13 months after the event.

## **28 Goodes: 1999-04-06**

George Goodes (aged 75) lived on a plot in Weltevreden, Koppies, in the Free State with his wife Isla and daughter Suzan (45). The morning of Tuesday, 6 April 1999, at about 09:30, George Goodes went to a water pump near the farmstead. His wife and daughter were at home. When he got to the waterpump he was attacked by two masked men, Mohau Tsipane (24) and Malefane Mbongo (35), who kicked him and hit him with an iron bar. He was injured very seriously - amongst other injuries being blinded in the one eye - and later lost consciousness.

When he stayed away too long his daughter, Suzan, went to look for him. She was overpowered by the two attackers and forced back into the house. Her elderly mother, Isla, was pushed aside. They wanted money and firearms. Suzan and her mother were then locked up in another room. After putting the telephone out of action the attackers left with money and a pair of binoculars. After they had gone Suzan climbed through a window and drove to the police with her motorcar.

The local population gave their full co-operation to the police in tracing the attackers and they were arrested the very next day. They were indicted in the Free State High Court on 9 October 2000 and convicted of attempted murder, for which each received 10 years imprisonment, and robbery with aggravating circumstances, for which they were sentenced to 15 years each.

### **Comments:**

Although no one was killed, the assault on Goodes was very serious. He was blinded in the one eye.

The local population gave their full co-operation during the investigation of the case.

The main motive seems to have been robbery. According to a confession made by Tsipane after his arrest, they had been told by a certain person that there was money on the farm. That person denied this to the police, however, putting the blame on Tsipane.

## **29 Grobler: 1999-06-26**

Jan Grobler (aged 60) lived with his mother (86) on the farm 'Uitkyk' in the district of Ventersdorp. The mother was an invalid. On 26 June 1999 Charles Montsitsi (26) broke into the house of another farm in the Ventersdorp district, where he stole several articles, including a pistol used in the attack on Grobler. (It is possible that there were other burglars involved as well.)

On 10 July at about 20:15 Montsitsi, together with Dolphas Mgiqwa (26) and a third man, broke into the house of Grobler, by removing a louvre window pane at the back of the house. They had the pistol referred to above as well as a revolver, and they shot Grobler eight times, wounding him seriously. It seems that Grobler himself managed to

wound Montsitsi in the knee with his hunting rifle. The attackers took the hunting rifle and made their escape. Mrs. Grobler, who was in her room, apparently suffered a stroke during the attack and she passed away two days later. She had injuries to her body, but there is no evidence that she had been assaulted. Jan Grobler died in the Potchefstroom Hospital on 25 July 1999 as a result of the multiple bullet wounds he had sustained during the attack.

After the attack Montsitsi went to an acquaintance, Johannes Lepora, on a neighbouring farm for assistance with the wound to his leg. Lepora summoned the police, however, and Montsitsi was arrested. The pistol was also discovered near the house. Blood spots found inside Grobler's house also came from Montsitsi. Accused Mgiqwa was linked to the crime by fingerprints found in the house. His cap was also found in the house.

It is not certain what exactly happened during the attack. Both Jan Grobler and his mother were unable to make statements prior to their deaths. At their trial the accused closed their case without giving any evidence.

The accused were tried in the High Court from 12 to 16 March 2001. Montsitsi and Mgiqwa were convicted of housebreaking and robbery with aggravating circumstances as well as murder, and each sentenced to twenty years and life imprisonment on those two counts. For illegal possession of firearms they received lesser periods of imprisonment. The third person was also charged but acquitted due to lack of evidence.

#### Comments:

This case again demonstrates the ineffectiveness of louver windows as protection against intruders. They can be removed without breaking.

This is one of several cases where the farmer is killed with firearms stolen previously at another farm.

Like the previous case, the attackers received no protection from the local community. The man that the attacker went to for help rather summoned the police.

### **30 Breytenbach: 1999-11-18**

Johan Breytenbach lived with his family on the farm Erfdeel in the Heilbron district in the Free State.

The morning of Thursday, 18 November 1999, the domestic worker, Elizabeth Lebenya, was alone in the kitchen of the homestead. She was overpowered by three attackers, Petrus Khubeku (29), Stephen Malothane (30) and Jabulani Morwetsi (29). One of them was armed with a knife. Lebenya was tied up. When she screamed she was heard by the gardener, John Ramaema. He came to her assistance but was also overpowered and tied up. The accused then waited for the owner to return, in the meantime getting hold of an R4 rifle and a .38 revolver.

Breytenbach and his little boy, Johan, arrived at about 13:30. He was confronted when he

entered the kitchen. He tried to flee but was shot in the back and stomach and he fell down, seriously wounded. He was tied up. The attackers demanded money and wanted the key to the safe. Ellen-Louise Breytenbach then arrived at the home with the three other children. The three children entered the home first and they were overpowered and tied up. When Ellen-Louise entered she was confronted by the attackers with the rifle and revolver. They demanded money and she offered to withdraw money. In the meantime several other female employees arrived. Some managed to flee but Sanna Makubing and Jemima Motsitsi were also forced into the house and tied up.

The attackers then decided that Mrs Breytenbach should take them to the bank to withdraw money. They put her and her little boy, Johan, in her double cab vehicle, threatening to shoot the boy if she resisted. They loaded a large quantity of goods, including the firearms, jewellery and clothing, in the vehicle and ordered Mrs Breytenbach to drive to the village. In Vanderbijlpark the vehicle ran out of petrol, and the accused fled on foot. Mrs Breytenbach managed to get to the police, however.

Khubeku and Malothane were arrested the same day in Vanderbijlpark. They had several stolen items on them, including the R4 rifle and the .38 revolver. Morwetsi was arrested a week later. They were indicted in the Free State High Court on 10 April 2000 and convicted on several counts. For robbery with aggravating circumstances they received twenty years imprisonment, for attempted murder ten years, five years on each of two counts of kidnapping, and a total of ten years imprisonment for illegal possession of firearms and ammunition.

#### Comments:

This is a typical case of attackers coming from an urban township to carry out an armed robbery on a farm.

Two of them had previously worked on a neighbouring farm, and therefore had the necessary knowledge to carry out the attack.

The willingness to shoot the victims when they try to flee is again demonstrated. However, they did not kill the seriously wounded victim.

In this case several of the farm workers were overpowered and tied up.

The attackers went to the farm armed only with knives. There they found the firearms with which the farmer was shot. The Committee came across several such cases.

#### **31 Cross: 1999-12-20**

Nicolas Tsie (aged 22), was employed by the deceased, Stephanus Cross (55), on a guest farm in Limpopo Province. On 18 December 1999 there was a party at the farm. Tsie also attended the party. He got drunk and there was an argument between him and Cross about his wages. He said he could not bear working with Cross. Cross and other people then took Tsie to his hut.

The following day Tsie did not go to work and seemed to have disappeared. He returned on the 20<sup>th</sup> to fetch his clothes, and disappeared into the bush armed with a stick. Cross left with his motorcar. When he returned later, Tsie was waiting for him at the entrance gate. When he got out of his motorcar to close the gate, Tsie attacked him with a wooden stick, hitting him over the head several times. He died on the scene. Tsie then took his cellular phone, wallet and ID document and disappeared.

Tsie was arrested on 16 January 2000. In a confession he said that he and a friend had attacked Cross. He explained that Cross had promised to pay them R500-00 per month, but in fact only paid them half that amount. When they confronted Cross he called them “kaffirs”.

Tsie was tried in the High Court on 24 October 2001, convicted of murder and robbery with aggravating circumstances and sentenced to 15 and 12 years imprisonment for the respective crimes.

#### Comments:

The attacker worked on the farm.

This is one of the minority of cases where revenge or a dispute over wages between the farmer and the worker clearly was the motive for the attack.

There was a perception that Cross did not treat his employees well, and that the relationship between them was not good.

During an interview the prosecuting state advocate indicated that in his view the attacker had no political motive for the attack. This was confirmed by the investigating officer during an interview.

The court case was finalised some 20 months after the event. The sentences imposed for the murder and robbery were much lower than the usual sentence for farm attacks, because the court took into account the bad blood between the attacker and the victim.

### **32 Du Plessis: 1999-12-26**

Johannes du Plessis (aged 62) and his wife Eunice (58) lived on the farm Brooklands, Kinkelbos, near Port Elizabeth. The morning of Friday, 26 November 1999, at about 11:00 Mr. du Plessis and his grandson, Armand (9), were busy at an outside building washing a pick-up truck when they were confronted by two unknown males. One of the men produced a firearm and shot Du Plessis in the head before proceeding to the house. The domestic worker, Phumia Synthia Yozo (34), grabbed the grandson, Armand, and went to hide in a nearby bush.

Eunice du Plessis, who was busy in the kitchen at the time, fled to the main bedroom but she was followed by the attackers and shot once in the head. The suspects took a television set out of the bedroom. Once outside they found Yozo and Armand in the

bushes. They forced them onto the truck and drove off with them. Approximately one kilometer from the farmhouse they instructed Yozo and Armand to climb off and they drove further in the direction of the national road. Yozo and Armand walked to the farmhouse from where they summoned the police.

The bakkie was later recovered in Motherwell, Port Elizabeth. No one has been arrested for the crimes and no further progress has been made with the investigation.

Comments:

The case is noteworthy for the cold-blooded and unnecessary killing of the Du Plessis couple. It is doubtful whether the attackers were concerned that they might be identified, since they allowed the employee Synthia Yozo and the grandson to go free.

There is nevertheless no indication that there was any motive other than robbery.

It is one of the relatively few cases in the Eastern Cape where the culprits have never been found.

### **33 Pretorius / Oosthuizen: 2000-08-06**

Sebastian Pretorius (aged 76) and his wife lived on the farm Jacobasheuwel in the district of Viljoenskroon. They went to church on Sunday 6 August 2000 at about 09:00, leaving two employees, Ipileng Albertina Hahlatsi (42) and Thembile George Koba (47) in the house. Shortly after the Pretorius couple had left, three attackers, Lazarus Shebe (30), Solomon Motitsoe (21) and Jantjie Modise (21) overpowered the two employees, tied them up and locked them in the bathroom. The attackers had a .44 magnum revolver and a 9 mm. pistol.

Johannes Hermanus Oosthuizen (68) and other family members then arrived on the farm and waited in their motorcar for the Pretorius couple to return. When the Pretorius couple arrived Mrs Pretorius walked ahead to the back door. There she was overpowered and also taken to the bathroom. Her husband saw this and ran around the house to warn Oosthuizen, but before he could do so he was cornered by one of the attackers and shot point blank in the face. He was seriously injured. Oosthuizen tried to start his car in order to escape, but the same accused shot him three times, wounding him seriously. Oosthuizen, his wife and his mother in law, Johanna Boucher, were also taken to the bathroom and detained. The attackers then loaded a large quantity of goods, including two pistols and a revolver, into Oosthuizen's motorcar. Before leaving one of them returned to the bathroom and fired three shots at the victims lying on the floor. Mahlatsi, Koba and Boucher were also injured.

The three attackers were arrested the next day and various stolen articles were recovered. They were tried in the Free State High Court on 15 to 31 October 2001. For the robbery with aggravating circumstances they were each sentenced to 25 years imprisonment, and on four counts of attempted murder they received a total of 6 years imprisonment. (It is

not clear exactly how the sentences were calculated.)

Comments:

It should be noted that the accused had visited the farm on 30 July 2000 to reconnoitre the area.

The attackers overpowered the employees while the farmer and his wife were away at church and tied them up. When the farmer and his wife returned they were ambushed.

The attackers did not hesitate to shoot, and some of the shooting was quite gratuitous. One of the domestic workers was also wounded.

**34 Cordier: 2000-08-26**

Marthinus Cordier (aged 57) and his wife Dina (57) lived on the farm Ebenaeser in the Wesselsbron district in the Free State. They were out on Saturday, 26 August 2000. When they returned they were ambushed near the house by two men, Zolile Gingela (28) and Daniel Motoai (31). Marthinus Cordier was severely assaulted and stabbed twelve times. His wife was stabbed twenty four times. They both died shortly afterwards and the attackers took the bodies to a shed and hid them under a canvas. They then took the keys to the house and removed cash, a knife and a revolver from the safe and fled in the farmer's pick-up truck.

Afterwards Gingela and Motoai went to a sangoma with the truck and told him that they had just killed two white persons and that they intended to carry on with this type of work. They asked the sangoma to 'treat' them, and he gave them traditional medicine. After they had left, however, they overturned the truck near Allanridge and it was recognised by an acquaintance of the Cordiers. He notified the police and that led to the arrest of the two attackers. A search for the deceased was started and their bodies discovered hidden in the shed.

The accused were indicted in the Free State High court from 3 to 12 December 2001. They were convicted and each sentenced to two terms of life imprisonment for the murders and to fifteen years for the robbery with aggravating circumstances. They received lesser sentences for possession of a firearm and ammunition.

Comments:

The multiple stabwounds (12 on the husband and 24 on the wife) are noteworthy, as it indicated that the attackers went much further than was required to achieve their goal.

At the same time they were criminals, with previous convictions and also intending to commit further similar crimes.

It is also a typical case where the farmer and his wife were ambushed on their return to the farm.

They had planned the attack some time beforehand and had also consulted the sangoma. The sangoma actually testified against the accused.

It is noteworthy that the accused had been convicted for other crimes previously and were out on parole at the time of the farm attack.

### **35     Holder: 2001-04-01**

Willem Adriaan Botha (aged 59 ) and Catherina Holder (53 ) lived on the farm Elna in the district of Balfour. On Sunday, 1 April 2001, they left the farm to go to church. While they were away five attackers broke into the house through two windows and started ransacking the place.

Botha and Holder returned at about 11:00. They were not aware that the perpetrators were still inside the house. Because of a burglary shortly before, Botha himself unlocked the back door for Holder to go inside, but he returned to fetch the parcels from the vehicle. When Holder walked into the house she was confronted by one of the perpetrators. She screamed and was instantly shot in the neck and killed. One of the attackers started shooting at Botha from the open door. Botha was wounded in the arm and leg, but he took out his own firearm and returned fire, wounding Skhosana. When the gunfire stopped he summoned assistance over the radio in the pickup van.

Two neighbours heard the distress call and went to Botha's assistance. Dirk van Deventer arrested one, William Zwane (25), who had a firearm on him. The other neighbour, Hendrik du Toit, arrested the heavily wounded Jan Skhosana (26), who told him that they had been five attackers and that the farmer had wounded him. When the Police arrived they started looking for the other attackers. One of the perpetrators shot the tracker dog dead and thereafter committed suicide by shooting himself. Solomon Makhubela (36) was arrested the next day in Ntorwane while in possession of some stolen articles.

According to a confession made by Makhubela, the attackers had come from Benoni. A previous worker had told them that there was a lot of money on the farm. They broke in and tried to open the safe, but without success. Two of them had firearms. They were then surprised by the farmer and his companion.

The trial of the three accused started in the Transvaal High Court on 14 October 2002. They were charged with murder, attempted murder, housebreaking and robbery with aggravating circumstances and illegal possession of firearms and ammunition. They were convicted and each sentenced to life imprisonment for the murder, ten years for attempted murder, fifteen years for housebreaking and robbery with aggravating circumstances and eight years for illegal possession of firearms and ammunition.

#### **Comments:**

The three attackers charged came from Kwandebele, Benoni and Pretoria respectively. They were aged 25, 26 and 36.

They heard from a previous worker on the farm that there was a lot of money on the farm.

This is a typical case where the perpetrators waited for the farmer to return from church on a Sunday morning. This is one of many similar cases where a movement sensing alarm inside the house might have prevented the tragedy.

Although the attackers said that they were surprised by the farmer, it is clear that they were well prepared for such an eventuality, because they were armed with two firearms and were prepared to shoot without hesitation.

The fact that the farmer had a firearm on him probably saved his life.

During a personal interview with the prosecutor she said that there was no indication of any motive other than robbery.

### **36 Visser: 2001-06-01**

Jan Visser (aged 39) and his wife Annelize (38) lived on the farm Kleinveld in a remote part of the Ceres district. During the week their children attended school in the village and every Friday about midday the parents went in to town to do shopping and to collect them for the weekend.

At about 07:30 on Friday, 1 June 2001, a farm worker, Japie Evans, saw a fire in the mountain only about 100 meters from the homestead. He told his employer, Jan Visser, about it and they went to investigate. He asked Visser whether he was not going to take a rifle along, but Visser declined. When they reached the spot where the fire had been seen, a man jumped up and shouted something. When Evans turned around and started running away he heard three gun shots. It was discovered later that Visser had been shot in the chest and had died almost instantaneously.

Evans kept on running, using a rivulet as cover. He ran to a neighbouring farm some four kilometres away. The neighbour, one Mouton, armed himself and immediately went to the Vissers' farm, while his wife alerted the police and commando. He was too late, however: when they got to Kleinveld they found Annelize Visser behind the study door shot through the head. There was a bullet hole through the door, and it was obvious that she was shot from the outside while sitting with her back against the door and trying to keep the door closed. Bags with clothing and other articles were already packed, but the attackers seemed to have fled without taking anything along.

Three suspects were arrested fairly quickly, after excellent police work, making use of an informer. One accused was released later when his innocence was established. The other two led the police to a cache of weapons hidden in the mountain. The weapons had been stolen earlier on another farm near the informal settlement where they had lived.

The other two accused, Parliament Ngulube (41) and Eliat Samela (27) will be tried in the Cape of Good Hope High Court in the course of 2003. The charges are housebreaking and theft (in respect of the firearms), two counts of murder, housebreaking with

aggravating circumstances and illegal possession of firearms and ammunition.

Comments:

It seems that the accused or other comrades had been watching the farm for some time prior to the attack, and they probably knew that the Vissers used to fetch their children in town on Friday mornings.

There were 'battle indicators' leading to the farm and to the mountain where they had been keeping watch.

The dogs were barking throughout the night before the attack. This did not seem to put the Vissers on their guard.

When the employee, Evans, asked his employer whether he was not going to take a rifle along, the latter refused. (Taking the rifle along might not necessarily have saved his life, however.)

The Vissers had a farm radio, but the battery was flat, so that assistance could not be obtained by that means. That might well have saved Mrs Visser's life.

Much was made of the fact that the attackers had taken nothing with them. In all probability, however, this was due to the fact that they had to make a quick get-away when the neighbour and police arrived on the scene.

**37 Van Rooyen: 2001-07-16**

The accused broke into the house on a farm belonging to one Lubbe in the Potchefstroom area, stealing a shotgun.

Machiel van Rooyen (48) and his father lived on the farm Rietkuil, although in separate houses some distance apart. Rietkuil is about ten kilometers from Lubbe's farm. On 16 July 2001 Van Rooyen went to his father's house and while he was away the perpetrators set up an ambush for him at the gate to the farmyard. He arrived back at about 17:00 and when he got out of his truck to open the gate he was shot with the shotgun. He jumped back into the bakkie, heavily wounded. He raced through the gate, made a u-turn and drove out again at high speed, apparently to get help. The attackers then ran away.

The victim only drove about a hundred meters before he succumbed to his injuries. The farm workers found him dead in the bakkie, with the engine still running.

Lulu Beukes and Frans Pheto (ages unknown) were arrested and charged. They were convicted of murder and sentenced to life imprisonment. A third accused is to be charged in the High Court shortly.

Comments:

This is another case where the firearm used by the attackers was stolen at another

farm.

Again there was an ambush at the gate.

### **38 Van den Heever: 2001-08-10**

Christaan van den Heever (aged 79) and his wife Martha (76) lived on the farm Sterkfontein in the Naboomspruit district. On Friday, 10 August 2001, Johannes Masenya (18), came to the farm to ask for employment and Mrs. van den Heever decided to take him. On the Monday he again reported for work at about 08:00. He worked till lunchtime, but then disappeared.

On the Wednesday the Van den Heevers were busy in the garden. Mr. van den Heever went to the house at about 10:00. His wife heard him screaming and she rushed towards the house, but was overpowered near the kitchen door by Masenya and another person, Frank Moloto. Masenya hit her over the head with an iron rod and they held a knife to her throat. They forced her into the house where she saw her seriously injured husband sitting in the courtyard. They demanded money and firearms. She unlocked the safe and they took money and firearms. They also took money from her purse as well as her cellular phone and the car keys. She heard her husband screaming again. They took her outside and she was assaulted again. She pretended to be dead.

When they had left she went back into the house and summoned the police. When the police arrived her husband was found in the pantry, shot dead in the chest at short range with the stolen shotgun. He had also been seriously assaulted. Mrs. van den Heever was very seriously injured as well, with a fracture of the skull and crushed fingers.

Members of the Commando followed the tracks of the attackers, and they were arrested shortly afterwards in a shack. Some of the stolen items were found on them, and the rest in a bush nearby, including the shotgun and air-gun.

Moloto and Masenya were tried in the Transvaal High Court on 4 November 2002. They were both convicted of murder, robbery with aggravating circumstances and illegal possession of firearms and ammunition. For the murder each was sentenced to life imprisonment and for the other crimes to 40 years imprisonment. During their application for bail they made certain incriminating admissions.

#### Comments:

The accused were aged 23 and 18 respectively. They came from the area where the farm was situated.

The Van den Heevers cannot really be criticized for taking the one attacker into their employ, since he was introduced to them by a worker from a neighbouring farm.

The victims were elderly people and quite helpless. Their attackers obviously intended killing them to prevent identification. Mrs. van den Heever probably survived because she pretended to be dead.

According to the prosecuting state advocate, the motive was robbery. The Van den Heevers were obviously not well to do people, however.

Lieutenant R.P. Schoeman of the Potgietersrus Commando acted particularly bravely, entering the shack where the attackers were hiding to arrest them. He only fired warning shots into the floor.

### **39 Knox: 2001-08-15**

Hendrik Christoffel Knox (aged 72) lived alone on the farm Sendelingsfontein near Hartebeesfontein. He was last seen alive in the farmyard by a farm worker at about 16:00 on 24 December 1998. When an employee went to the house the following morning, the house was locked up and quiet. She notified a neighbour, who broke into the house and found the body of Knox on the bed. His hand and feet were bound and a piece of cloth shoved in his mouth. His left hand had deep cut wounds. This was probably the result of warding off the blows with a panga-like weapon. He had died of asphyxia. His attackers had taken a rifle, a pistol and other items from the home before leaving.

Seven suspects were arrested within a few days. Most of them came from Jouberton. They included Sam Mokobeni (32), Gulani van Rooyen (46) and Adolfus Matyobo (29). The two firearms and some of the other stolen items were also recovered. The accused were tried in the Supreme Court during April and May 2000. Mokobeni, van Rooyen and Matyobo were convicted of robbery with aggravating circumstances, for which they received 20 years imprisonment, and murder, for which they each received 25 years imprisonment. They also received 5 years imprisonment for illegal possession of firearms and ammunition. The other accused were acquitted.

According to a confession made by Van Rooyen, he and the others went to the farm by vehicle. They stopped at a distance and waited till dark. They then walked in pairs to the homestead. There they cut the telephone line. They first tried to break in through a window, but without success. Then they cut through the security gate and unlocked the door with a key. They found the deceased in the bedroom sleeping. They woke him up and one of the other attackers hit him with a long knife before tying his hands and feet. They removed a rifle from the safe, and found a pistol in a drawer and covered him with a blanket. This version is confirmed in broad terms by one of the other accused who, however, was later acquitted at the trial.

Comments:

The ages of the attackers varied between 20 and 46. Almost all of them came from Jouberton near Klerksdorp, about 30 kilometers away.

They organized a truck to take them to a position near the farm. The truck left so as not to cause suspicion, and they were picked up later again.

They managed to penetrate a fairly good security system. There was a security fence around the house and burglarproofing in the house itself.

The victim was probably assaulted to force him to open the safe.

There seems to be no other motive than robbery. This was confirmed by the investigating officer. The state advocate who prosecuted has left the prosecution service and could not be interviewed.

The trial took place some 16 or 17 months after the event. Heavy sentences were imposed on those convicted.

This is also a typical case of an elderly farmer living alone on a farm and getting attacked.

#### **40 Transell: 2001-12-19**

The Transell couple lived on the farm Troscott in the Addo district. The farm is relatively isolated. Marlene Transell (aged 45) left for town on 19 December 2001 at about 10:00 to do her usual shopping. She returned around 12:00. Her husband George (47) was working in the garden. Later he went to his neighbour's farm, leaving his wife behind. They had a standing arrangement that one of them would always be at home, because of bad security.

Marlene was alone inside the house, watching television. At around 14:00 three attackers, Hilton Oliphant (19) and two others aged 16 and 17 respectively, gained entry to the house through an open kitchen window. They stalked Marlene and hit her over the head with an iron bar. She was almost knocked unconscious. The attackers demanded to be told where the money and firearms were. She was repeatedly hit over the head until she showed them the safe. Two pistols and jewellery were removed from the safe. One of the attackers then shot her through the shoulder. Her hands were tied up and they made threatening and degrading remarks. One attacker held the firearms against the victim's head and told her he was going to shoot her. He fired a shot but she pulled back her head, at the same time falling to the floor and pretending to be dead. (The shot left a burn mark on her face and caused her eardrum to burst.)

When the farmer returned home he felt that something was wrong. As he walked towards the house one of the attackers came round the corner, carrying a video player. He had one of the pistols, which he pointed at the farmer, ordering him to stand still. He tried to cock the pistol, but it malfunctioned and the farmer took the opportunity to run away. He went for help at the neighbour's farm.

When they returned the attackers had left. The attackers were noticed by farm workers in the area. The information was passed on to the police, which resulted in the arrest of the two youths. Hilton Oliphant was arrested later. He had been raised on a farm in that area and at the time he was an accused in another housebreaking case. The attackers later told the police that they had decided to attack the farm because they knew that there were several firearms. According to them they went to the farm in the morning and observed all the movements there. They waited until the wife was alone before attacking her.

The three were convicted in the Eastern Cape High Court on 2002-05-14 of robbery with aggravating circumstances. The sentences are not known.

Comments:

Again, this is a case where the attackers waited for the husband to leave before attacking the wife.

The victim probably was not killed only because she pretended to be dead.

#### **41 Dent: 2002-06-15**

On 15 June 2002 at around 03:00 assailants broke into the home of Robin and Allison Dent (both 59) and their son, Nicholas (13) on Aussicht Farm, Wartburg, while the family were sleeping. Robin Dent went to investigate and was confronted by the intruders. His wife and son, hearing an altercation, followed him. Robin and Allison Dent were assaulted, then both shot dead. Holding Nicholas at gunpoint, the attackers ransacked the house, stealing various items, including several firearms. They loaded the stolen items into the Dents' bakkie, which was outside, and instructed Nicholas to drive it. The vehicle was stopped at an isolated spot near Trust Feed and the stolen goods were offloaded into a minibus vehicle. Nicholas was told to run away, and he found his way to a nearby farm from where the incident was reported. R4 assault rifle cartridges were subsequently found at the scene where the Dents had been shot. The killers had gained entry to the home by forcing open the lounge window.

Jabulani Gqushu Zuma (aged 26) was arrested shortly afterwards. He was indicted in the Pietermaritzburg High Court on 25 November 2002 on two counts of murder, one of kidnapping and one of housebreaking with intent to rob and robbery with aggravating circumstances. During the trial, the son, Nicholas, described what had happened during the attack, testifying that the accused had used Mr Dent's Zulu nickname and that the accused also knew the Zulu nickname of his older brother. This witness had picked the accused out at an identification parade.

At the same trial Zuma was also indicted on two other counts of housebreaking with intent to rob and robbery with aggravating circumstances. Those charges related to an attack on another couple, Mr. Roderick Skinner and his wife Maria, on the farm Westwood near Greytown in the early hours of 26 March 2002, and one on Greytown businessman Mr Cassim Kharodia and his wife Lakpaphy, in the early hours of 2 April 2002. An R4 rifle stolen from Skinner had been ballistically linked to the murder of the Dents.

Zuma was convicted on 2 December of the murder of the Dent couple and sentenced to two terms of life imprisonment. For the kidnapping of the Dent boy, the other charges of housebreaking with intent to rob and robbery with aggravating circumstances, and illegal possession of the firearm, he was sentenced to a total of 82 years imprisonment. Zuma was out of prison on parole at the time the crimes had been committed. He had started his life of crime at the age of 15 and had three previous convictions for housebreaking. The crimes had been planned with fellow inmates in prison. The judge ordered that Zuma not be released on parole before the lapse of 25 years.

Comments:

The killing of the Dent couple was quite unnecessary. It could not have been to avoid identification, because the attackers allowed the boy to go free.

The case is another example of murders being committed by means of a firearm stolen at another farm.

In this case the attackers were clearly a gang specialising in stealing and robbing on farms and the judge in fact found that Zuma and his cronies had operated as a gang.

### **The December gang: 10 October 1995 to 27 April 1996**

During the period from October 1995 to April 1996 a band of criminals known as the December Gang (named after their leader, December Mkhuma) terrorised the smallholdings in the De Deur area, near Vereeniging, as set out below. They carried out nine attacks, in the process murdering three people and committing multiple rapes on six women, including young girls. In most instances they took firearms, jewelry, television sets and other expensive household goods and drove off in the owner's vehicle.

Their reign of terror started the night of 10 October 1995, when they overpowered David and Cornelia Ruck in their home in Walkerville. They strangled Cornelia to death and tied up her husband, before robbing them of a vehicle, a trailer and a large quantity of household goods. A week later they attacked a group of seven people in a house and an adjacent shop at Sweetwaters. They robbed a large quantity of goods and one of the women was raped ten times.

In December they attacked another house at Sweetwaters. They raped a minor girl three times, and robbed a motor vehicle, firearm and other items. The following night, in the vicinity of Grassmere, they fatally shot Bekikie Malevu in the stomach and robbed him of his firearm.

The next spate of attacks followed in March 1996, when they went to a house on a smallholding near Vereeniging, where they robbed the two female inmates of a motor vehicle and other items. They also attempted to rape one of the victims, but she luckily escaped. A week later they attacked another couple on a plot at Apple Orchards. They raped the wife six times before leaving with two motorcars and other items. Nine days later they attacked the four black inmates of another house near Walkerville, again robbing two motorcars and other goods. A minor girl was raped twice.

In April they attacked a couple at Hartzenbergfontein. The wife was raped and the couple was then robbed of a light delivery van, two firearms and other goods. Finally, the evening of 27 April they attacked the Craig family, Ester, Jeannette and Noël, in their home near Walkerville. They shot and killed Ester Craig, and robbed a motorcar, three firearms and other items.

Nine of the gang were caught eventually and prosecuted on several counts of murder, rape, robbery with aggravating circumstances and unlawful possession of firearms and ammunition. After an extended court case seven were convicted, and the matter was finalized on 2 December 1999 when they were sentenced to very long periods of effective imprisonment. Reuben Shabangu (aged 23) received 45 years, Collen Sithole (25) received 68 years, Gift Modau (24) received 113 years, Samuel Mkhuma (25) received 100 years, December Mkhuma (22) received 128 years, Simon Skosana (27) received 40 years and Meshack Mkhuma (28) received 63 years.

#### Comments:

This is clearly a case where a gang was involved in attacks on smallholdings. They came from the De Deur area, and also from Sebokeng and Soweto.

They committed many rapes. One woman was raped ten times; another six times. The gang robbed anything that they could lay their hands on, often escaping with the victim's motorcar.

There is no indication that there was any motive other than common criminality, and the attacks were similar to the reign of terror of gangs operating in some urban areas and informal settlements. Although the majority of victims were white, one of the victims murdered was black, as was one of the young girls who got raped.

During an interview on 2002-09-17 the prosecuting state advocate stated that there was no indication of any political motives for the attacks, and that the crimes had been the result of common criminality.

It is perhaps noteworthy that in none of the cases was a charge of burglary laid against the attackers. One therefore has to assume that they gained easy access to all the homes.

### **ANALYSIS OF THE CASE STUDIES**

Although the facts of the four case studies incorporated in Chapter 6 are not given above, they are also used for the analysis below. Because of the extraordinary circumstances of the December Gang cases, however, they are ignored for the present purposes. The 45 case studies confirm many of the conclusions that can be drawn from looking at farm attacks in general. Farm attacks can take many forms but certain patterns can often be discerned. In fact, the similarity between some farm attacks is quite noticeable. These recurring patterns enable one to generalise on the nature of farm attacks and to take preventative measures on that basis.

It should be stressed once more, however, that the case studies are not a statistically valid sample of farm attacks in general because they all fall within the very serious category and their selection was not random enough. The frequency of a certain set of circumstances in the case studies should therefore not be taken as an indication of its incidence in general. For example, the proportion of cases where there were fatalities or overt political overtones is much smaller amongst farm attacks in general than in the case

studies. Nevertheless, the other features of the case studies correspond to a large degree with the nature of farm attacks in general described in Chapter 2.

In 7 of the 45 cases there was evidence that the attackers had prior knowledge of the circumstances obtaining on the targeted farms or smallholdings, while in 6 cases they had reconnoitred the areas. In two cases they approached the farm on some innocent pretext, such as wanting to buy something. In nine of the cases the victims were ambushed away from the farmhouse, perhaps while travelling along the road, while in eight cases the attackers broke into the house while the owners were away and waited for them to return. In four cases the employees or other inmates of the house were overpowered and tied up first by the attackers, who then waited for the farmer to return. In two cases the attacks were thwarted, while in the rest of the cases the victims were overpowered inside the house. In 26 (57.8%) of the case studies the attack took place inside the house, compared to 50.8% for farm attacks in general during 2001.

In the 45 cases there were a total of 110 victims, with an average of 2,4 victims per case. The average for farm attacks in general in 2001 was 1.4 victims per incident. In all but 8 of the cases murder was committed, a total of 49 (44.5%) of the victims being killed, including a young girl. This is much higher than the national average of 10.5% for 2001, which emphasises the seriousness of the case studies. In two cases the victims were killed while trying to flee from the attackers, in four cases they were killed while offering some resistance, and in at least six cases the victims were killed execution style, sometimes even with their hands tied behind their backs. In a few cases there was some logical reason for killing the victims, such as to prevent later identification, but in no less than 32 instances (71.1%) it would seem that there was no real reason for killing the victims. Eight of the victims were black and two coloured. One black and one coloured victim were killed.

In the case studies six of the victims were raped, making up 5.5% of all the victims or 11.1% of the 54 female victims. This corresponds very well with the general figures of 5% and 12.3% respectively. One of the victims raped was a young girl, and one was a coloured farmwife. In fact, most of the rape victims of farm attacks in general during 2001 were black women.

Twenty two (20.0%) of the victims were assaulted, the severity of the injuries varying from slight to very serious. This compares to 34.6% of victims of farm attacks in general in 2001. The reason for the low percentage in the case studies is probably that so many victims were killed. Three of the injured victims were black. One young girl was injured very seriously.

The ages of 80 of the victims are known. Seven (8.6%) were under 20 years, 11 (13.8%) were between 20 and 39 years, 28 (35.0%) were between 40 and 59 years, and 34 (42.5%) were 60 or older. The youngest was 5 years of age and the oldest 86. (In two cases there were also babies, but they are discounted for statistical purposes.) One can therefore see the large preponderance of middle aged and especially elderly victims. The percentages in each category for farm attacks in general are 5.9%, 31.2%, 34.4% and

28.4%. The victims' ages in the case studies therefore tended to be older. It may therefore confirm the impression of the Committee, for which there is no objective data at the moment, that elderly victims are more likely to be killed than their younger counterparts. The reason may have to do with the relative frailty of the elderly or the fact that some of the elderly victims are less able to handle the situation during a farm attacks properly. In one of the case studies, which the Committee does not want to identify, the son was overpowered and tied up. When the father then arrived, he started an altercation with the attackers, and was summarily shot dead.

In 42 of the case studies, robbery was committed. Nothing was stolen by the attackers in only three of the cases. In two of those cases the victims drove off after being ambushed and wounded in their cars, while in the third the attack was thwarted when the police arrived on the scene, but even in these three cases it can be said with a fair degree of certainty that the primary motive for the attacks was robbery. Unfortunately the statistics in this regard for farm attacks in general are inconclusive. In six of the cases revenge was mentioned as one of the motives, while in seven cases there were overt racial or political overtones. (In one of these cases, however, the purpose of the racist remarks was patently to mislead the police.) In all the cases where the motive might have been revenge or of a racial or political nature, the attackers also robbed items. One also cannot exclude the possibility that some of those attackers who claimed that the attacks had been motivated by political or racial issues, did so in order to evoke some sympathy.

It is clear that the items most sought after by the attackers were money and firearms, while items such as cellular phones were also in demand. Very often the victims' motor vehicles would also be loaded with loot and driven away. In farm attacks in general during 2001, money was robbed in 31.2% of the cases, firearms in 23.0% and vehicles in 16.0%. The differences may be ascribed to the fact that the majority of the attacks in the cases studies took place on farms, where weapons were more likely to be found.

In the case studies firearms were used in 33 (73.3%) of the attacks. This compares to the 63.8% for farm attacks in general. The difference is probably due to the fact that the case studies all fall within the very serious category. In several cases the firearms used to assault or kill the victims had actually been stolen or robbed from the victims themselves, while five of the firearms used had been stolen on another farm. Some of the most vicious attacks, however, were carried out with other weapons, such as knives.

There were at least 114 attackers involved in the other 45 case studies. (In some cases there might have been more than the known number of attackers.) There were therefore an average of 2.5 perpetrators in each attack. Four of the attackers were killed by the security forces or other farmers. In six cases the perpetrators could not be traced or there was insufficient evidence for a prosecution. Two of the prosecutions led to an acquittal because the State could not prove the case. In the other 36 cases some 78 accused were convicted. Their ages varied between 15 and 47, the average being 25.5 years. Most were in their twenties. The average awaiting-trial period was about 18 months.

In 36 cases, 58 accused were convicted of murder. The death penalty was imposed on

two of them (four times on one accused for four murders). One later received amnesty from the Truth and Reconciliation Commission, while the death penalty of the other one was commuted to life imprisonment after the abolition of capital punishment. Thirty one were sentenced to life imprisonment for the murders, including nine with double life sentences, while the others received sentences of imprisonment varying between 15 and 50 years. There were three sentences of less than 20 years, the accused being 16, 18 and 23 years old. On the other hand, some accused of below 18 also received sentences in excess of 20 years.

Sixty two of the accused were convicted of robbery or housebreaking with intent to rob and robbery. They all received sentences of imprisonment of between 6 and 25 years. Most, however, varied between 10 and 20 years imprisonment.

Six accused were convicted of rape. Life imprisonment was imposed on one, while the sentence of the others varied between 9 and 20 years.

The sentences imposed on the accused in the case studies were almost all very severe. The only exceptions were sentences imposed on a couple of youngsters and one accused who had a lesser role to play in the farm attack. The Committee also thought that the sentences of 9 and 10 years imposed on two rapists respectively in one case were too light. These relatively light sentences were the exceptions, however.

## **CHAPTER 6**

### **CASE STUDIES: LAND INVASIONS**

#### **INTRODUCTION**

On 2001-08-20 Ms Pat Dunn, the chairperson of the Mangete Landowners' Association, made a presentation to the committee on the illegal occupation of farm land belonging to members of the Association. The Committee also became aware of other, similar cases in which farm land had been illegally occupied, especially in KwaZulu-Natal, and it was agreed that three Committee members would make a field trip to KZN and visit affected areas. The three Committee members travelled to Mangete (about 100 km north of Durban) and Nonoti (about 80 km north of Durban) on 2002-06-24, and to Nqabeni (about 180 km from Durban, to the south) the next day. Although, because of time constraints, it was not possible to visit another area where intimidation of farmers appears land-related, viz. the Verulam policing area, press reports were followed up with the reporters concerned, and the station commissioner at the local police station was interviewed telephonically. Subsequent to the visit by members to KZN, the attention of the committee was drawn, at the end of August 2002, to threats of further invasion of farm land in the Kranskop area of KZN where, it transpired, encroachment on farm land had been taking place for several years.

At the request of the Committee, Agri SA and the Transvaal Agricultural Union made further submissions on the problem of land occupation. As a result of that two other committee members visited the Daveyton area in Gauteng on 2002-08-01, where a large number of illegal residents had made their home on a farm.

#### **MANGETE**

##### **Submission by the Mangete Landowners Association**

According to Ms Dunn the Mangete Landowners' Association was formed in 1995. This Association represents the farming community in Mangete, near the KZN north coast town of Mandeni, whether or not members of the community actually engage in farming activities. The area in question, also known as Dunn Land, is owned by descendants of 19<sup>th</sup> century settler John Dunn, who died in 1895, leaving numerous children, as he was polygamously married to many Zulu wives. In total, the area in question is the equivalent of one large commercial farm. It is divided into sixty three farms, with farming activities centering mainly on sugar cane.

Ms Dunn informed the Committee that illegal occupants had been moving on to this privately owned land since 1993, erecting homes, including substantial block structures. The illegal occupants appeared to be acting on the instructions of a traditional leader in the area adjoining Mangete. The landowners turned to the law to protect their interests

and in 1995 launched an action in the High Court for the eviction of the squatters, which resulted in a formal land claim to Dunn Land being submitted by *Inkosi* Mathaba on behalf of the Macambini tribe who occupy the neighbouring area. As a result of the submission of this claim the High Court action was suspended while the claim was in progress. The claim itself was referred by the then Regional Land Claims Commissioner to the Land Claims Court for adjudication.

Despite the fact that the Restitution of Land Rights Act of 1994 makes it an offence to invade land which is subject to a claim, nothing was done about the illegal occupants, and the invasions continued. Many of the squatters were not even members of the Macambini tribe, having come to the area from elsewhere. Approximately one thousand families were living illegally on the land, and less than one third of these squatters were claimants. At the beginning of June 2001 the Mangete Landowners' Association, bowing to pressure from the Regional Land Claims Commissioner and a number of politicians, agreed to defer proceedings in the Land Claims Court with a view to seeking an out of court settlement of the land claim in negotiations with affected parties.

The invasions and the subsequent land claim had dire consequences for the owners of the land in Mangete. Not only were they to develop the land once the claim had been lodged, but since the early days of the invasions they experienced numerous incidents of threat to their lives and properties, intimidation, and arson, which seriously jeopardised their safety and their livelihoods. Not only were sugar cane crops regularly burnt, with all the attendant financial consequences, but in April 2001 the community hall, built by the farmers, was completely destroyed by arson. Ms Dunn herself was held up by armed men at her home during March 2001. They stole valuables, and drove her car away; it was later found abandoned on N2 road, its engine seized. The Mangete Landowners' Association ensured that all incidents were reported to the SAPS and that the Regional Land Claims Commission, which was processing the claim, was kept fully updated with regular reports. However, nothing was being done to remedy the situation.

Ms Dunn gave detailed information to the Committee about illegal building operations, robbery, violence and intimidation of legal owners, and malicious damage to property or arson. She also handed over twelve reports compiled by the Mangete Landowners' Association during 1998 and 1999. Details of more recent (2000/2001) incidents were also provided, including twenty seven with the relevant SAPS CAS numbers. Among the victims of violent crime in the area were children, who were constantly harassed when walking to and from school. On 3 November 2000 a nine year old pupil at Mangete Primary school was raped on her way home, and another woman was raped in her home in January 2001. Cattle belonging to illegal occupants caused damage to crops and vegetation, and some squatters were allegedly illegally harvesting the sugar cane crops of the owners of the property. On 2001-02-19 a squatter led a blockade of the main access road to Mangete, and there was another blockade of a side road on 8 March 2001

**Field visit to the area on 2001-06-24**

The three Committee members were taken for a brief tour of some of the invaded areas, and also visited the burnt out community hall. The roads were bad, and the land owners were experiencing problems in having them maintained - yet squatters appeared to have easy access to graders to have roads to their homes made and maintained. The members paid a visit to the farm of Ms Joan Dunn, from where there was a good view of a large number of homes which had been built by illegal occupants. The farm on which the building had been taking place was a deceased estate, and Joan had previously leased it herself and farmed cane on it - which was no longer possible. According to these illegal occupants, who were not even claimants, they had been put there by a local *induna* (headman) of the chief. New houses were constantly being built. On Joan Dunn's own farm her sugar cane crop had been burnt. The committee members also met with Mr Lyndon Dunn, who was experiencing similar problems, and the party stopped near the site of the grave of Catherine Dunn, a wife of John Dunn. A guest house which had previously stood at that site, which had been used to accommodate members of the 19<sup>th</sup> century colonial government, had been demolished by the squatters, who had used the material for their own buildings.

### **Developments in Mangete since the visit by the Committee**

During subsequent interviews Ms Dunn kept the Committee abreast of developments. On 2002-06-09 fires on six different, geographically separated, farms - all having illegal occupants living in their vicinity - caused around one million rand worth of damage to sugar cane crops and destroyed outbuildings on farms. Homesteads on farms were also threatened but were saved by the timely intervention of farmers who battled the flames throughout the night. Although similar fires, especially during the dry June and July months, had occurred since the earliest days of illegal occupations, Mr Lyndon Dunn, with whom the committee members had met two weeks earlier, was quoted in a local newspaper as saying: 'I have lived here all my life, but what is happening here tonight is the worst I have seen. There seem to be fires everywhere.'

A spokesperson for the SAPS denied that the fires were the work of an arsonist, claiming that they had been started by a carelessly discarded cigarette - a claim which was flatly denied by Mangete landowners. Publicly challenging this explanation in a letter to the press, Pat Dunn pointed out that the 'magic cigarette' would have had to have 'flown backwards from the north against a southerly gale force wind, avoiding dozens of farms on its way, to land 10km away on a farm in the southernmost part of Mangete'. Why, she asked, had the accounts of eyewitnesses who saw the source of fire as being from an informal settlement above the farmhouse, been ignored by the police? Mangete landowners were unhappy with the police response in general, alleging that before issuing a statement to the media that the fires were probably caused by the burning cigarette the police, despite going to the area after being informed about the fires, had not bothered to travel to the specific farms where the fires were raging to speak with the owners, who were busy trying to put out the fires.

The Mangete Landowners' Association was also very unhappy with the conduct of the

office of the Regional Land Claims Commissioner. In February 2002 Ms Dunn wrote to the National Minister of Agriculture and Land Affairs, sending a copy of the letter to offices of the President and a number of national and provincial ministers and functionaries, detailing the failure of that office to honour undertakings which had been made when the court case had originally been postponed and spelling out in detail the type of problems which were being experienced.

In November 2002 the Association decided that, since there appeared to be no progress in settling the dispute, it was imperative that the court proceedings should resume. However, at a pre-trial hearing that month, which the Land Claims Commissioner failed to attend, the Association was persuaded to postpone the court case once again. Later that month the Regional Land Claims Commissioner announced what she termed an 'open ended' settlement in terms of section 42D of the Restitution of Land Rights Act, No 22 of 1994, which involved the expenditure of several million rand to purchase land in and around the area. Mangete landowners were at a loss to understand how there could have been a settlement when they themselves had not been consulted, and alleged gross procedural irregularities, in that the Commission had been approaching individual landowners with a view to pressurising them to sell their land. The public statement released by the Commission provided no clarification concerning crucial questions arising out of the purported settlement: Were all the claimants agreeable, and had they agreed to move? What was the position concerning the non-claimants? While the media release had focussed on the purchase of land, there was no information about whether there were funds for the re-settlement of all the illegal occupants, and the re-building of their houses. Nor was it clear whether there could even be a settlement when the validity of the claim had not been established in the first place.

When the court case, scheduled for April 2003, was postponed yet again, members of the Landowners' Association planned a meeting to decide the way forward. However, before the meeting could be held Pat Dunn and her husband, Mr John Hunt, were attacked at their Mangete home by four armed intruders during the early hours of the morning of 2003-04. John Hunt was shot and seriously injured, and Pat Dunn was badly beaten. The couple's dogs, and dogs belonging to family members on other nearby farms, had been poisoned. Hunt had managed to activate the alarm system and the robbers fled with the couple's cellphones, cash and other valuables. Pat Dunn's car was also taken, but was later found abandoned in a nearby township.

Hunt's injuries were very serious, but he survived and is in the process of slowly recovering, but the attack has left Pat Dunn severely traumatised - especially as it was the second attack on her, in her own home, in just over two years (see above). Furthermore, she had previously been warned by workers that there was talk that her husband (rather than she herself) would be killed.

The police have arrested three men, and a fourth suspect is still outstanding. They maintain that the motive was purely robbery - but given the warnings, and the fact that the chief in the neighbouring area is widely alleged to have known criminals close to him, the victims themselves, and members of their community, believe that the attack was

linked to the land dispute.

## **NONOTI**

The Nonoti area, which lies south of the Tugela river, north of the town of kwaDukuza, has historically been farmed by Indian farmers, some of whom are believed to have owned the land since the end of 19<sup>th</sup> century. According to a press report illegal occupants had been moving on to the private farmland for ten or more years, and invasions had intensified before the 1994 elections. One of those believed to be responsible for settling people on the land had claimed that the land had belonged to his father, and had started selling land to people while farmers were still on the land - forcing them to abandon their farms in fear of their lives. The man was subsequently charged for fraud but died before the trial was finalised. Farming activities has become impossible for many. For example, in 2001 a KwaDukuza councillor, Madhan Singh, moved out of the area after his wife was held up at gunpoint by a gang of armed men; he was, however, still the legal owner.

After visiting Mangete, the committee members travelled to Nonoti on 24 June, and met with Mr Narain Harikrishna, chairperson of the local Farmers' Association. He confirmed that the invasions had started ten or more years previously, and that at least twenty individual small-scale sugar cane farmers had been affected. Farmers had tried to use legal means to deal with the situation, including through obtaining court interdicts, but the police were not prepared to implement them. He estimated that at least 400 to 500 hectare of land was affected, and says that the theft of crops (sugar cane and, especially, food crops) was rife from farms where farming activities continued. Some farmers were prepared to sell land to Land Affairs and there were currently some negotiations in progress. The previous Minister of Land Affairs had purchased land at the mouth of the Nonoti River to accommodate some of the illegal occupants, but the number of invaders kept growing, as did the extent of the land being occupied in areas other than the Nonoti River mouth. People were reportedly selling land, and occupants were not necessarily from the area; some might be from as far afield as the Transkei region. Mr Harikrishna was aware of land claims involving white-owned farms a little further away, in the Doringkop area. Mr Harikrishna drove with the Committee members to view the affected area: What had, a mere few years ago, been farmland now appeared to be one large informal settlement.

An increase in crime in the area was attributed to squatters by persons interviewed by a *Sunday Times* journalist the month following on the visit to the area by the Committee members. Jeewan Makaardood, a farmer and chairman of the Nonoti Farm Watch, is quoted as saying 'We are being robbed of our livelihood. Squatters are building their homes on land that should have been used for farming. Our crops are being destroyed.' The number of farmers in the area dwindled considerably during the previous past three years, and farmers still in the area were feeling very threatened. According to this report, farms further afield were also affected: Another farmer, Thej Singh, had had to abandon his farm near the Tugela River, about 20km from Nonoti, two years previously, and his

land had been stripped completely. Crime had become so bad that farmers were forced to tend their farms with armed guards watching over them. At a meeting the previous week (mid July 2002) farmers claimed that one of the squatters was illegally subdividing abandoned farms and selling them for about R100 a plot. The farmers also alleged that he was reputed to sell plots in exchange for alcohol. The farmers claimed that the provincial minister, the MEC for Agriculture, had suggested that farmers 'negotiate' with the land invaders.

Fear levels increased when a shopkeeper, Mr Rajoo Naicker, aged 68, was shot dead on 2002-08-25 when he was forced at gunpoint to open the Sotsha Store which he operated on his farm in nearby Doornkop. His brother, Mr Chinsamy Naicker, aged 65, was shot and seriously injured.

## **NQABENI**

Prior to the visit by Committee members, one of the members interviewed some of the farmers in the Nqabeni area, which lies between Izingolweni and Harding on the KwaZulu-Natal South Coast, telephonically. The Committee member also visited Mr Simon Joyce and his mother-in-law, Ms Iris Fynn, in their Durban flat. The latter was the legal owner of a farm in Nqabeni, which had been allocated to her farther in 1910. Mr Joyce managed the farm on her behalf and the family had lived on the farm until a few years ago, but had to move to Durban because of intimidation and violence from illegal occupants.

Mr Joyce says that around 1994 the family of a worker who had been displaced from another farm, moved on to theirs, but now there are many families there. In 1996 Mr Joyce, using local attorneys, obtained an eviction order, which has been served on the illegal occupants. However, when the local sheriff went to move the occupants he was shot at, and that was the end of the attempt to move them. A relative of the family and his wife, who also farmed in the area, was also been shot at by illegal occupants on their farm. The SAPS has confirmed to the Committee that a certain Mnganyelwa Jali was charged with attempted murder in 1996, but that the public prosecutor withdrew the case for some unknown reason. Attempts were then made to put the case back on the court roll but it was later established that the accused was deceased.

The three Committee members travelled to Nqabeni on 2002-07-25, where they had a meeting with local farmers of the Nqabeni Farmers' Association. The meeting, chaired by the president of the Association, Mr Mitchell Lawrence, was well attended and a number of those present spoke about their own personal experiences, and those of other people, with regard to land ownership and encroachment.

As with Mangete, the farms which have been invaded are owned by persons formerly classified as 'coloured'; some plots have been owned by a particular family for generations. They are adjacent to the Mtimudi tribal area, headed by a traditional leader, Chief Mavundla. There are also some white farmers in the area. The farmers told

Committee members that their farms had previously extended all the way to Harding, but because of encroachment by squatters only a portion of the original area was left and that was now also under threat.

It was believed that 'coloured' occupation of Nqabeni (as opposed to it being a tribal reserve area) dated to the time of Queen Victoria. However, the legal status of the land varied - many farmers had title deeds, but some of the land was designated as trust land. For example, the Fynn family had long lived in the area, and Mr Francis Fynn addressed the meeting about the family's continuing struggle to secure title deeds. He had even led a deputation to Pretoria in 1993 in an unsuccessful attempt to sort the matter out. The influx of illegal occupants on to 'coloured' land had already started then, and it was particularly bad between 1993 and 1998. The Fynn family's land was divided into lots. Some of the lots had squatters living on them, and the chief of the neighbouring area (Mavundla) was claiming them. However, people from other tribal areas were living there, and were reportedly being charged (illegally) for doing so.

Farmers with title deeds to land were also experiencing problems. For example, Mr Ogle bought the farm Brookside in August 1999. There were two families living on the property at that stage and Mr Ogle was told that they would be leaving the farm (but they did not). He began to invest money to set up a farming infrastructure and to renovate the house his family was to live in. A few months later he noticed that fencing and poles were being removed by people from the neighbouring Celebane (tribal) ward, but when he confronted the people responsible and tried to reason with them they refused to listen and became more hostile, and more people settled on his land. His staff were threatened with violence, and he was warned that his tractors would be burned. He then contacted the chief's *induna* (headman) in the area, and was informed that it was tribal land, and that the *induna* was carrying out orders of the chief to settle people on the land. Mr Ogle then made contact with the chief, who provided a letter in Zulu saying that the *induna* could not settle any more people on the farm until the dispute had been resolved. According to a newspaper article handed to the Committee, three other farms near the Celebane ward were also similarly affected. Threats to Mr Ogle continued, and staff were no longer prepared to work for him because of the intimidation and harassment from illegal occupants. Although reports were made to the police they failed to intervene effectively, despite Mr Ogle having sought and obtained a court order. He also approached the Department of Land Affairs and the person he saw said he would look into it, but heard nothing further. As relationships deteriorated further, the Ogle family felt increasingly unsafe, and on 2000-01-17 Mrs Ogle was attacked by several gunmen and shot, kicked, stabbed and left for dead. According to Mr Ogle the police was called but arrived only an hour later.

The chief continued to claim the land, and squatters had erected solid structures with tiled roofs on them. Mr and Mrs Ogle have moved to Port Shepstone, but continued to re-pay the loan they took to buy the farm, despite not being able to continue with farming. The farm has been leased to Mr Abrahams, whose own farm adjoins that of the Ogles. His crops have been burnt, and he has been told that if he stopped cultivating the burning will stop.

A number of other farms, including those owned by members of the Fynn, Gruit, and Manning families, had experienced similar problems, including the constant threat of violence. Winston Fynn had lost 3.5 km of fencing, which had been cut up and left lying around. The police could not assist, saying there was not enough evidence. The illegal occupants were also over-grazing the land. There was a great deal of stock theft, even in broad daylight.

At the beginning of 2002 Veronica Narainsamy had been driving home from her shop to her farm, through a cane farm. When she got out of her car to open a boundary gate two youngsters with guns attacked and assaulted her. They took money and the motive appeared to be robbery.

Farmers perceived racial overtones to what was happening. A farm near the Ogle farm had been bought by a former police member who was black and there were no squatters on his farm. Nor had white farms in the area, Illovo Sugar company farms, or a government farm, been invaded.

There had been various attempts to seek assistance from the Department of Land Affairs. On two occasions meetings had been arranged and farmers had travelled to Harding, but no one from the Department had turned up. Land Affairs had made it clear to the farmers that the government would not move squatters, for it would create problems if they did so. However, the government would buy land if people wanted to sell it.

The farmers were now part of a Farm Watch cell together with local white farmers.

#### **VERULAM / HAZELMERE**

The attention of the Committee was also drawn to the encroachment on Indian owned farms by squatters in the Verulam/Hazelmere area, between Durban and Tongaat, by a newspaper report about an attack on Mr Moonsami Govender (aged 70) and his wife Manogari (61) in January 2002. There were also a number of other attacks on small-scale farmers in this Verulam/Tongaat area: Mr Velayutha Gounden (67) and his family were terrorised by three men on their farm in the Verulam area and their house was ransacked in April 2002, and Mr Kesavan Govender was shot dead at his farmhouse in the same area at the end of June 2002. On 2002-10-12 Mr Balasundrum Naicker (44) was shot dead at his Tongaat farm early in the morning when he went to the rescue of his wife who was being attacked while removing an item from the washing line. Their son was critically injured in the same attack. African farmers, too, may be victims in these areas: on 2001-12-09 Tongaat farmer Bheka Mbuze, 38, was shot in the head and seriously injured while sitting in the kitchen of his home.

Unfortunately there was insufficient time to travel to the area during the two-day field visit by the three Committee members. One member did interview the newspaper reporter who was covering events in the area, and also telephonically interviewed the local station

commissioner at Verulam SAPS.

According to a report in the Durban-based newspaper *Post*, Mr and Mrs Govender and their 18 year old son underwent a terrifying two hour ordeal during the early morning hours of 2002-01-18 when eleven thugs armed with bush knives attacked them on their pineapple and curry leaf farm outside the town of Verulam. While trying to gain access to the Govenders's wood and iron home, the attackers reportedly told them: 'The farm belongs to us. You cannot do anything to stop us. Today is your last day. We are going to finish you and your family'. Mrs Govender had a brick hurled in the face, and her husband almost lost two fingers when he was slashed with a panga. Mrs Govender managed to activate the farm siren, which alerted neighbours, and the attackers fled. The police arrived and took the couple to hospital for treatment. When they returned from hospital later on Friday, they found that their house had been stripped completely and all their possessions stolen - furniture, jewellery, clothing, electrical tools, light fittings and window frames. The Govenders abandoned their property and moved into Verulam to live with their daughter.

Several months later, another reporter interviewed farmers in the Hazelmere/Verulam area, and noted that farmers - many of whom had farmed in the area for generations - were robbed of their produce, and suffered regular burglaries and hijackings. The chairman of the Verulam and District Farm Watch suggested that local Indian farmers were 'very trusting' and lacked alarms and burglar guards, and definitely needed to tighten up on security, in the face of what another executive member of the local Farm Watch described as a '200%' increase in crime during 2002.

According to the reporter who wrote the article on the January 2002 attack on the Govender family the situation remains unchanged; people continued, during early 2003, to telephone his newspaper complaining about theft (e.g. their vegetables being stolen), and their children being mugged when travelling to school. He claimed that the police found it difficult to operate in the area because some of those making trouble were well armed.

The Verulam station commissioner confirmed to the Committee in March 2003 that there were housebreakings, and that the situation was tense. He said that the police were patrolling the affected area. Squatting was taking place on some farms, including in the Buffelsdraai area. For example, squatters had moved on to the farm of a Mr V K Govender and were threatening to kill him. The illegal occupants came from kwaMashu and Inanda (nearby black -occupied areas) and there were also Xhosa people from the Transkei. It was alleged that one of the men behind these invasions was selling land which was not legally his.

## **KRANSKOP**

On 24 August 2002-08-24 white farmers in the Kranskop area were handed a memorandum from the local amaNgcolosi Tribal Authority, which borders on

commercial farm land. The memorandum was headed 'Reasons that lead to a decision to chase the Whites out of the area', and explained why it had been necessary to take this decision.

The precipitating factor which led to this protest, and to farmers expressing fears that they would be targeted for 'Zimbabwe-style' land invasions, appears to have been the shooting dead of an alleged poacher on one of the farms on 2002-08-09, by security guards hired by local farmers. The memorandum was handed to the chairman of the local Farmers' Association, Mr Rolf Konigkramer, by an estimated crowd of 200 to 300 protesters, and listed the following problems facing community members:

- the impounding of goats and cattle,
- the killing of donkeys,
- the shooting of innocent civilians by white security guards,
- the pointing of firearms at people using the road passing near 'the farm', and
- the discovery of bones in the bush and sugar cane fields on the farms of persons who had allegedly been killed by whites and their security guards.

'We beg not to be misunderstood, we don't mean we don't want the Whites' the memorandum continues, 'we are just asking for them to be removed from our society'. Resolutions taken by the community at a meeting held on 2002-08-13 are listed as follows:

1. 'We don't need the Whites in the in the area and we ask them not to come beyond Kranskop. They must stay 10 kilometres away from us.
2. Whoever came with sugar cane [interpreted as a reference to Indian sugar cane farmers in the area] he/she must take it away, whoever came with the soil/land he/she must take it away and leave the Tribal land.
3. We don't need security guards
4. We don't want the whites to go to Shushu even if they are going for fishing we don't want them
5. We don't want whites to go to Die Kop (Etsheni likaNtumjambili)
6. We are asking the Station Commander to go and fetch any Whites at Shushu right now if there are any
7. The cattle, goats and the donkeys that were pounded and those that were killed we want them back
8. From now on we demand that no cattle, no goat and no donkeys are pounded
9. We want all our demands to be met and complied with within a month that include the return of cattle, goats and donkeys and their removal (sic)
10. Failing which we will be up in arms as we are not scared of anyone
11. We are appealing to the National Minister of Land Affairs to intervene in this matter'

## **Background to the events of August 2002**

Before describing the events which followed on the handing over of the memorandum as detailed in information given to the Committee by farmers and other interested parties, and published in the media, it should be noted that there had been other reported incidents of violence and intimidation in the area in recent years:

In September 1997 four pregnant cows, valued at about R45 000, were driven off Esperance Farm into a neighbouring plantation, where they were gunned down with AK47 rifles and chopped up for the meat to be sold. Although stock theft was rife in the area, it was the first time that cattle had been gunned down in this way.

In December 1998 farmer Friedl Redinger was ambushed and shot dead on his farm, near the border with the Ngcolosi area. The case is described in greater detail elsewhere.

In 1998 local medical practitioner Dr Alois Mngadi bought a farm in the Kranskop area intending to develop it for tourism purposes with the help of the local community. However, in April 2000 members of the community invaded his land and started clearing bush to make way for homes they intended building. Following a meeting with the local chief he abandoned his plans for it was 'clear at the meeting that if (he) didn't co-operate, they'd invade (his) farm'. According to Dr Mngadi his farm was surrounded by Druten Ranch, the farm on which the shooting of the alleged poacher occurred in August 2002, and he was expecting to sell it to the same group which had shown interest in purchasing Druten Ranch.

## **Information received by the committee about the events of August 2002**

Details about the protest action and the circumstances under which it took place were provided to the Committee by Mr Edsel Hohls, the chairman for safety and security for the KwaZulu-Natal Agricultural Union (Kwanalu). In addition the Committee had telephonic interviews with other interested parties, including a member of the local farming community who preferred to remain anonymous, about the circumstances which gave rise to the protest action. The Committee also perused several press reports on the matter.

According to Mr Hohls, and others cited in press reports, farmers experienced a huge poaching problem. It was alleged that one of the organisers of the protest of 24 August was himself facing poaching charges, and that the campaign against the farmers had started after this person had been caught poaching. The police, too, confirmed that poaching was 'rife in the district.' The alleged poacher, Njabulo Bhengu (aged 19) was shot dead and two of his companions injured on 9 August, during a skirmish with security guards employed by local farmers. The aim of the security guards allegedly was 'to find out the whereabouts and modus operandi of the poachers.' The guards reportedly encountered a group of poachers, including the deceased, carrying the carcass of a female bush buck (a protected species). According to the police, they initially believed that there had been a 'battle between rival poaching gangs', and they only became aware of the involvement of the security guards many hours later, following a report from the security

firm concerned, which voluntarily handed in the weapon used by the guard, Mr Sibongiseni Nzimande, who was then charged with murder. Farmers claimed that, in their response to this incident, the police acted in a partisan manner, in that the alleged poachers were still at large, and had not appeared in court to face counter charges. In response, the police pointed out that in addition to the murder charge, a case of attempted murder, poaching and trespassing had been opened against the men who had been shot and injured.

The human bones referred to in the memorandum handed over during the protest refers to the fact that the remains of four bodies had been found 'in shallow graves on farms', and a fifth one was found shortly after the protest action. According to the member of the local farming community who does not wish to be named, the corpse had been beheaded, and the hands had been cut off, with one arm found nearby. There is a great deal of violence in the neighbouring tribal reserve area and, in fact, there was no evidence that the deceased had been killed in the areas in which their bodies had been found. Nevertheless, a Tribal Authority councillor from amaNgcolosi claimed that the find 'reinforced suspicions' that farmers were 'on the warpath' against them.' This person confirmed that cattle, goats and donkeys were constantly straying on to farms on the border with the amaNgcolosi reserve, and that the farmers had adopted a policy of impounding the animals. 'Unfortunately, two white farmers from another area, who were leasing the farm on which the shooting of the poacher took place, previously had impounded cattle, sold them and had kept the proceeds for themselves'. The person asserted that the guards involved in the shooting of the alleged poacher had been hired privately by two farmers, and not by the Conservancy 'which represents all farmers and through which the local security company is hired'.

The Committee also received written comments from Mr Marius Koen, who runs a private security firm which had previously provided security for the farmers, in which he levelled certain allegations against the security company personnel. He claims, *inter alia*, that former SANDF operatives who had served in Angola and Namibia and 'Portuguese speaking men', who were not registered with SIRA, were being employed by the security firm concerned. According to Koen the incident 'resulted in fuelling the conflict between the Kranskop farmers and their neighbours to the extent that threats are now being made against the farmers'. Similarly, in an article in the *Farmers' Weekly*, Darren Taylor comments: 'To say the local people, specifically those not employed on the farms, detest Buffalo Security is an understatement.'

While the incident involving the security guard may have sparked off the August 2002 process, it seems from the information available to the Committee that it merely brought to a head long-simmering tensions in the area. The anonymous person in the farming community referred to above, for example, notes: 'Most of the farmers carry weapons at all times. We have had numerous attacks and three farmers have been killed in our area. Trespassing is a serious problem on border farms and the farmers involved require that anybody wanting to visit the farm or to drive through it, must ask permission from the farmer. Farmers are not unreasonable, but do try to limit vehicles from carting building materials onto border farms, as squatting is a very real problem. Our sugarcane is set

alight frequently after trespassers have been apprehended or reprimanded’.

In his submission, which is based on his own experience of providing security for the farmers, Koen lists thirteen farms near to the border with the reserve area which have experienced problems, including incidents of poaching, arson, and stray animals on property, and illegal land occupation. Fencing was stolen, and boundaries were difficult to distinguish. Cattle and goats caused considerable damage to crops, the impoundment of livestock was a contentious issue, especially as poor people found the costs of reclaiming their cattle beyond their meagre means. Theft of timber and sugarcane was also rife. He notes that the 1945 legislation governing the impounding of stock is outdated and badly in need of review. He also stresses that farmers should ensure that the conditions of relevant labour legislation are adhered to, and recommends that labour be unionised.

Koen explains that trespass charges against people from the nearby tribal land may arise because cutting across commercial farms considerably shortens distances for people travelling on foot. He also points out that the theft of timber and sugar cane may stem from the poverty in which these people live. Given levels of conflict in areas adjacent to the farmland, the violence may also spill over on to farms with people fleeing to stay with relatives and friends there. Koen also alludes to the land factor in problems experienced by some of the Kranskop farmers. For example, the local *inkosi* started to make claims that the land on which the Ntombeni store was situated - on the boundary of the Reserve, and catering for its residents - belonged to him. After incidents of theft, housebreaking, threats, and an attempted murder on the owner, Mr Witthoft, the family, fearing for their safety, abandoned the property, which was reportedly ‘stripped down to nothing within two weeks of their departure’. This created the impression that ‘with enough pressure people can be forced off their properties’.

Media reports citing interviews with farmers and residents of neighbouring Reserve areas also suggest that disputes over land lie at the heart of what is happening in Kranskop. Journalist Dumisani Zondi cites ‘Tribal residents’ as claiming that farmers had encroached on their land when they took over farms in the area in 1991 and thereafter extended their boundaries still further. This allegation was denied by the Kranskop Farmers’ Association chairman, Mr Rolf Konigkramer, but, according to Zondi a spokesperson for the Land Commission confirmed that there was a land claim by the amaNgcolosi people and that this would affect several farms in the area. In the *Farmers’ Weekly* article Darren Taylor describes the process of encroachment taking place in Kranskop and elsewhere: Gradually, over a period of years, illegal occupants move further and further on to farming land through grazing their livestock on it and cutting fences until farmers abandon the land. At Kranskop ‘14 commercial farms of more than 10 000ha have been abandoned to masses of squatters now trying to make a living there.’

### **Developments since August 2002**

The situation following on the handing over of the memorandum was extremely tense, with a number of farmers in the area receiving threats, including Mr André Swanepoel,

whose farm was apparently mistakenly identified as that on which the killing of Njabulo Bhengu had taken place. (The incident in fact took place on a neighbouring farm.) Even doctors working at Ntunjambili hospital, living in the Kranskop area and serving the Reserve area, were reportedly considering moving away because of the call to chase whites from the area. At a meeting held during early September, aimed at a peaceful resolution of the dispute between the two parties, the provincial Member of Executive Committee for Safety and Security, *Inkosi* Ngubane, expressed his disapproval of the memorandum, and stressed that land invasions were illegal and that a Zimbabwe-type situation would not be tolerated. However, according to Taylor both Ngubane and Mr Khathi (the councillor identified by the farmers as being instrumental in leading the protest against them) agreed that farmers should not be allowed to own more than one farm; they should be ceded to the government for 'redistribution to the landless'.

*Inkosi* Ngubane and Agricultural and Environmental Affairs MEC Narend Singh subsequently appointed a task team to look into sources of conflict in the district, which intervention reportedly resulted in the withdrawal of public threats against farmers and white tourists and the convening of a series of meetings between local farmers and representatives of the tribal authority.' Several of the latter representatives continued to insist that Druten Ranch be returned to the local black community, claiming it was their land. However, the report continues, despite a 1997 investigation by the Land Claims Commission having found there was no valid land claim, homes were still being built on properties illegally. Mr Edsel Hohls, who had personally lost 13km of fencing, and been shot at twice while burning firebreaks, claimed that the police were not doing enough about the situation.

The case against the security guard, Ndimande, was finalised in the Pietermaritzburg High Court on 2002-12-04. He was found guilty of the murder of Bhengu and was sentenced to twelve years imprisonment, plus five years' imprisonment for each of the attempted murder of Bhengu's three companions. The judge found the accused's claim that he was shot at first as 'false beyond a reasonable doubt'.

According to an update by Edsel Hohls at the end of February 2003 the situation was still very tense, and 'deteriorating', in that

poaching was escalating,

dogs had been shot,

farmworkers were being intimidated,

theft of timber and crops continued and was not being prosecuted because it was seen as 'petty theft', and

the police were reluctant to open cases and had to be 'forced to do so'.

As at the middle of March, a senior prosecutor in the office of the DPP, Pietermaritzburg, was due to visit the area in connection with the farmers' concerns about the lack of prosecutions. Although meetings between representatives of the farmers and the neighbouring community had been scheduled to continue, under the auspices of provincial government, delays had been experienced, and relevant documentation had

reportedly been 'lost'.

Mr Walter Redinger, brother of the deceased Friedl Redinger, has informed the Committee that the deceased's farm is 'unfarmable', with illegal occupants still living on it, re-established plantations of trees hacked down, and the area burnt. He and the other trustee of the farm have taken a decision to offer the farm for sale to the Department of Land Affairs for re-distribution purposes, and are going out of their way to ensure that amicable relationships are maintained with their black neighbours. An area has already been allocated on which to build a school.

In a new development, two claimants from nearby black areas had lodged a restitution claim for 30 000 hectares of Kranskop farmland. These claims appeared in the Government Gazette March 2003-03-07. Although the cut off date for lodging claims had long since passed the office of the Land Claims Commissioner maintained that the claims had in fact been lodged in 1998.

#### **OTHER LAND INVASIONS IN KWAZULU-NATAL**

A further instance of attempted land invasion came to light when farmers in the Vryheid area, together with a local chief, *Inkosi* Johannes Mdlalose, obtained a temporary High court interdict on 2003-03-28, restraining the elder brother of the same chief, Jabulani Mdlalose, from encouraging the illegal occupation of over 200 farms in the district. Johannes Mdlalose further alleged that his brother Jabulani was representing himself as the rightful chief, and was allocating land on farms which were privately owned. Jabulani Mdlalose, however, claimed that a number of farms in the area had been given back to the tribal authority during the latter 1980s by the previous government. The court gave Jabulani Mdlalose until 2003-04-24 to show cause why the order should not be made final. However, the respondent filed opposing affidavits and the matter is set down for argument in the High court on 20 June 2003.

While the claim by Mr Edsel Hohls of Kranskop that farmers had had to abandon hundreds of thousands of acres of prime agricultural land could reportedly not be substantiated by kwaNalu, it seems that the type of encroachment which has been happening in Kranskop is occurring elsewhere. In a telephonic interview in March 2003, Mr John du Preez, Chairperson of the Rietvlei Farmers' Association in the Greytown/Muden area, described how a similar process had been occurring in the Middeldrift area, lying roughly within a triangle bounded by Muden and Weenen in the east and Mooi River in the west. This area, it should be noted, has long experienced problems between farmers and neighbouring black communities, linked to, among other things, forced removals of black people for purposes of homeland consolidation in the 1970s and 1980s.

According to a media report the situation has been exacerbated by the way in which land claims in the area have been handled by the Land Claims Commission. According to

game farmer Peter Channing, who had been the target of a number of violent attacks, the Commission had offered him around R5 million to buy his 6 000 ha game farm, situated within the protected Thukela Biosphere reserve. He claimed that he needed R17 million for the property - or the 'same thing' elsewhere in the province - and had not accepted the offer. He had subsequently discovered that in the 2001/2002 annual report of the Commission on Restitution of Land Rights it was stated that the claim had been settled, and reflected millions of rand as paid out to him. The neighbouring community thus believed he had been paid and should move out. The land claims commissioner is quoted in the report as saying that there was a printing error in the report and accused Channing of making a 'mountain out of an anthil'. Noting that the error could cause 'unnecessary conflict', the spokesperson for land issues in the neighbouring area, Jotham Myaka, goes on to say: 'My concern is that people like us, land facilitators, were not involved in this claim from the start'. He warned: 'If this claim is not facilitated properly the game on Channing's farm will be gone in a morning.'

## **MODDERKLIP**

Agri SA provided the Committee with information regarding the illegal occupation of the farm of Mr A.C. ('Braam') Duvenhage (aged 71). The farm 'Modder East' is situated between Daveyton and Benoni and the legal owner is in fact a company, Modderklip Boerdery (Pty) Ltd, of which Duvenhage is a director. Duvenhage has been farming there since 1965.

Two members of the Committee visited the farm on 2002-08-01, where they met Mr Duvenhage. Mr Duvenhage guided them through a portion of the occupied land. Squatters had built shacks on most of the land. The land is adjacent to an area set aside for council housing, from where squatters had encroached onto the farm. The streets had names and the Committee members saw a nursery school or crèche with the requisite recreational facilities for the children. Water was drawn from pipes laid into the ground. A portion of the land lay fallow, but it was littered with plastic bags. Mr Duvenhage informed the Committee members that he was unable to farm on this piece of land because his farm manager had been attacked while tilling the soil. The attackers had been armed. An expensive tractor had also been stolen.

Surprisingly, when the squatters saw Mr Duvenhage they greeted him by name and chatted to him. The Committee members spoke to some of the squatters, and they said that they had come 'from Daveyton'. When asked why they had come they replied that 'there were no houses in Daveyton'.

Mr Duvenhage gave the Committee members the history of the case and the various steps he had taken to have the squatters removed. It all had come to nothing, however, and he had approached the Transvaal High Court for relief. At the time of the visit of the Committee the case was still pending, but judgement was delivered on 2002-11-20 under the title of Modderklip Boerdery (Pty) Ltd versus The President of the Republic of South Africa and Others. Apart from the President, the other respondents in the case were the

Minister of Safety and Security, the Minister of Agriculture and Land Affairs, the Minister of Housing, the National Commissioner of Police, the Sheriff of the Court for Benoni, Ekurhuleni Metropolitan Municipality (which in effect is the Greater Benoni Municipality) and the 'Modder East Illegal Occupants' (as they were referred to in the papers). At a later stage Agri SA took part in the proceedings as so-called *amicus curiae*, representing the farming community in general.

The extensive judgement outlines the history of the case in detail, before dealing with the legal aspects relating to the duty of the State to prevent the illegal occupation of land, or 'land-grab' as it is called in the judgement. This judgement is of such importance in respect of the illegal occupation of land that it is summarised below, but in fairly great detail. It is acknowledged that the summary contains lengthy direct extracts from the judgement, but to facilitate reading, no quotation marks are used. Also, the various Ministerial offices are jointly referred to as the Government, unless it appears otherwise from the context.

### **History of the case**

In the early 1990s a steady influx of people took place into the East Rand area, particularly Daveyton, and as a result a number of informal settlements were established. In May 2000 fifty shacks appeared on the farm virtually overnight, with approximately 400 squatters in residence. At this time the farm was fully operational and was cultivating a specific type of grass fodder. Duvenhage was in fact running the farming operations.

On 2000-05-17 Duvenhage laid a charge of trespassing at the local police station, but the matter was transferred to Daveyton Police Station. A few days later Duvenhage attended a meeting with the Police. Numerous offenders were arrested, charged, found guilty, warned and released. Shortly thereafter a second meeting was convened with the head of the nearby Modderbee prison, who stated that further action against the squatters would mean that the already overflowing prison would be further burdened with the arrest and incarceration of the 400 squatters. The head of the prison recommended that an eviction order be sought.

Shortly hereafter, squatting grew at an alarming rate, and by October 2000 the number of squatters had grown to about 18 000, with approximately 4 000 shacks. This took place under the eyes of the Police who did nothing to prevent it, despite the fact that Duvenhage had reported this to the Police at a high level. Duvenhage was told that according to the 'law' (probably the Prevention of Illegal Eviction and Wrongful Occupation of Land Act, No 19 of 1998) the squatters could only be removed by means of a court order.

Modderklip Boerdery then lodged an application in the Witwatersrand Local Division of the High Court against the squatters for their eviction. The squatters obtained legal representation and opposed the application. It was nevertheless granted on 2001-04-12, when the squatters were directed to clear the property within two months and remove

their shacks. The Sheriff of the Court was authorised to evict and remove the squatters in the event that the latter failed to act as ordered.

The Sheriff served the eviction order on the squatters on 2001-05-10. After the two month period none of the squatters on the farm Modder East had removed their shacks. A warrant for eviction was issued by the Registrar of the High Court and given to the Sheriff. The Sheriff, however, reacted by saying that the squatters would only be removed with the assistance of private contractors, the cost of which Modderklip Boerdery would be responsible for. The Sheriff requested Modderklip Boerdery to deposit R1.8 million into her trust account before she would act. (A later estimate of the private contractor's costs came to R2.2 million, as a result of the increase in the number of squatters on the property.)

On 2001-07-06 Duvenage laid a further charge at the Daveyton Police Station against the squatters for illegal occupation of the farm as well as being in contempt of the court order. Letters were also sent to the President, the Minister of safety and Security, the Minister of Agriculture and Land Affairs and to the National Commissioner of Police, enclosing copies of Duvenhage's affidavit to the Police and the court order.

The President's office indicated that the matter was receiving attention, but no further correspondence was received. On 16 July 2001 a further letter was addressed to the President containing a plea to the government to become actively involved in the matter to ensure that the eviction order could be fulfilled. The same letter was sent to the Ministers and the Commissioner. Only the Minister of Safety and Security responded, who said that the Police Service could not intervene in a civil matter, and he added: 'I am concerned about the long term effect this type of situation can have on the Government's Land Reform Programme. I would appreciate it if you could sensitise the Minister of Land Affairs about the situation, and possibly explore alternative solutions from that perspective.'

A further urgent request to the Daveyton Police Station that the squatters be formally charged was ignored, but on 18 June 2001-06-18 Modderklip's attorneys received a telephone call from a senior police official who said that the charges against the squatters were being investigated. The official admitted that the police had a duty to investigate each charge laid and to charge the offenders and bring them before court, but said this would be impossible as it would lead to violent opposition, not only among the squatters but residents in Daveyton also. The official suggested that a meeting be held with all the stakeholders. Nothing was done despite the attorneys' willingness to participate in the discussion.

The office of Minister of Agriculture and Land finally acknowledged receipt of applicant's letter on 2001-07-16, saying that the matter was receiving attention. This was followed by a letter saying that, in terms of a Presidential minute, the Department of Housing administered the Prevention of Illegal Eviction and Unlawful Occupation of Land Act. Modderklip's attorneys then sent a letter with copies of the correspondence to the office of the Minister of Housing, but no response was received.

The position therefore was that the President did not respond to Duvenhage's plea, the Minister for Safety and Security refused to do anything as he viewed the problem as a civil matter, the Minister of Agriculture and Land affairs viewed it as a matter for the Minister of Housing, the Minister of Housing did not respond, the National Commissioner of Police did not respond and the sheriff claimed R1.8 million before she would do anything.

On 2001-08-06, the Municipality advised Modderklip in a notice that the number of squatters had increased and inquired whether any progress had been made in evicting the squatters in terms of the court order. In fact, however, the squatting fell within the jurisdiction of the Municipality, which failed to exercise its authority to address the problem. Instead the Municipality wanted to buy an unoccupied part of the farm Modder East immediately adjacent to the squatting area and threatened Modderklip with expropriation should the negotiations fail. According to Duvenhage the Municipality was only interested in acquiring the best part of the farm and wished to leave him with the squatting problem. By this time, the number of squatters had grown considerably and was estimated at approximately 6 000 shacks and 36 000 squatters.

It was under these circumstances that Modderklip approached the Transvaal High Court on 2001-09-03 for a declaratory order. The nature of the order sought was that the Government had a legal duty to take steps to remove the illegal squatters from the property, including the duty to assist the sheriff to fulfil her duties in this regard, and to see to it that the squatters vacate the property within a certain period of time. During the trial the application was extended to force the Government to put a comprehensive plan of action before the court within a specific period of time. As basis for the application Modderklip relied on its rights in terms of the Constitution.

The case was heard on 2002-10-12 and judgement was delivered on 2002-11-20. In its judgement the court found that in essence the case was about the effective execution of the original court order of 2001-04-12, after compliance with all procedural and material provisions of the Prevention of Illegal Eviction and Wrongful Occupation of Land 19 of 1998 (hereinafter called the '1998 Act'). Of cardinal interest was the role and duties of appropriate state organs to ensure that the court order was effectively complied with and, where it was not complied with, that effective execution would take place.

### **Findings of the court in respect of the legal position**

Previously the unlawful occupation and wrongful occupation of land was governed by the Prevention of Illegal Squatting Act, No 52 of 1951 (the Squatting Act). The general ambit of the Squatting Act was that unlawful occupation or squatting was a crime, which could be terminated with rather heavy-handed eviction procedures. Eviction orders were usually coupled with demolition orders.

From the long title of the 1998 Act read with the preamble it is clear that the object of the

1998 Act was to prohibit unlawful eviction, to set out procedures for the eviction of unlawful occupiers, to repeal the former as well as other defunct laws and to give effect to certain key provisions of the Bill of Rights which are embodied in the Interim and later the Final Constitution. It is clear that the law tried to effect a balance between the protection of property rights as set out in section 25(1) of the Constitution on the one hand, and the provisions set out in section 26(3), which protect the individual from arbitrary evictions, on the other hand. Even though a lengthy eviction procedure was created, which hampers the common law rights of ownership of the property owner, it is clear that the 1998 Act honours the protection given in section 25(1) of the Constitution. Once eviction is allowed, the Act aims at doing so effectively, precisely because the situation would otherwise lead to an infringement of the fundamental protection which ownership of property enjoys in terms of section 25(1).

The Court interpreted the 1998 Act as follows: The Act creates a time period - in legal terms called a *spatium* - during which procedures for eviction must be complied with in the course of the balancing process. During this period, however, the landowner can be seriously prejudiced. In order to achieve equilibrium between the apparently conflicting rights, wide powers and discretions are bestowed on the Court with respect to the eviction of unlawful occupiers. In terms of section 4 (10) of the Act the Court is empowered to grant an order for the demolition and removal of the buildings or structures erected by the occupiers. In terms of section 4(11) the Court is empowered to appoint a person to assist the Sheriff in executing an order for eviction, demolition or removal on request subject to the conditions stipulated by the Court. In terms of section 4(12) the Court is empowered to grant an order for the eviction of the unlawful occupiers or for the demolition or removal of buildings or structures subject to conditions that the court deems just, and which the Court can, on good cause shown, amend any condition of an eviction order.

The last named capacity which is granted to the Court, namely to amend an eviction order on good cause shown, is radical and differs drastically from the provisions of the earlier Squatters Act. This capacity to amend the order is necessary to achieve an effective balance between the fundamental rights of the landowner set out in section 25(1) of the Constitution and the prohibition of arbitrary evictions set out in section 26(3). The need for this balancing instrument is apparent from the following:

1. Contrary to the prior position, the 1998 Act demands a procedure that can be lengthy by nature. Where eviction previously could occur summarily due to the criminal nature of the unlawful occupation, now unlawful occupation is in terms of the 1998 Act no longer *per se* a crime.
2. In the period which has to lapse between the first moment of wrongful infringement and the eventual eviction order, the landowner is deprived of his right to enjoyment and use of the particular land to the extent that the particular land is physically occupied. The earlier position of summary eviction prevented such unlawful occupation from becoming in any way permanent - it was nipped in the bud.
3. The danger of the fair and reasonable balancing process which the 1998 Act is aiming at, is that during the course of the *spatium* the unlawful occupiers could settle and escalate to a land grab situation, particularly where the occupation is orchestrated

politically or in any other way, and that the police and sheriff, when the *spatium* has passed and the eviction order is granted in the end, throw up their hands. The result is precisely that which the 1998 Act did not intend, namely a *de facto* alienation and confiscation of property contrary to the fundamental protection of section 25(1) of the Constitution. This is precisely what happened in the Modderklip case - during this period the numbers of squatters grew from 400 to 15 000.

4. The capacity to amend an eviction order on good cause shown, therefore, is the instrument by which effect is given to the court order and the equitable balancing of interests is achieved. Only when the court's eviction order is effectively enforced, will the constitutional balance of interests be possible - otherwise the *spatium* will be an instrument for illegal appropriation of land in the style of Zimbabwe.

Two fundamental questions arise in this regard:

Is the Government constitutionally obliged under the circumstances of this case to ensure that the supremacy of the law is maintained and to support the court with practical measures and to guarantee the effectiveness of the court's order?

Can the court force the Government to fulfil its constitutional duties or to even directly order that the court order be executed?

In terms of the Preamble to the Constitution, Chapter 1, section 1(c) and section 2, a fundamental value upon which the Republic of South Africa as a democratic state is founded, is the supremacy of the Constitution and the rule of law, which brings into being that all legal rules and actions must be compatible therewith and that the obligations which are bestowed thereby must be fulfilled.

The Bill of Rights, which protects certain fundamental rights of all people in the country, is the cornerstone of democracy in South Africa. The Constitution compels the State to honour the rights embodied in the Bill of Rights, to protect it, to further and realise it. The Bill of Rights applies to the whole body of law and binds the legislative, executive and judicial authority and all organs of state. That is clear from the Constitution, Chapter 2, sections 7(1), 7(2) and 8(1).

In the Preamble to the Constitution it is further stated that one of the fundamental values on which the people of South Africa founded a democracy is that every citizen is protected equally by the law. This right is entrenched in section 9(1) of the Constitution, which provides: 'Everyone is equal before the law and is entitled to the protection and privilege of the law.'

Another crucial provision of the Bill of Rights, which must be honoured, protected, promoted and realised is the right to property. The appropriate provision reads:

25. (1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

(2) Property may be expropriated only in terms of law of general application ...

Section 165(4) of the Constitution places an imperative obligation on the organs of state to ensure that the supremacy of the law is safeguarded, as will appear from the provision ‘Organs of state, through legislative and other measures, must assist and protect the courts to ensure... the effectiveness of the courts.’ In this regard the Court referred to an article written by a previous Chief Justice, where he said: ‘There can be no doubt that the depth of judicial power in the modern state is formidable, and in this country it is arguable even awesome. Independence in the exercise of that power is crucial to the legitimacy of the power. .... There is an inherent paradox about all this power. Unlike Parliament or the executive, the court does not have the power of the purse or the army or the police to execute its will. .... They would be impotent to protect the Constitution if the agencies of the state which control the mighty physical and financial resources of the state refuse to command those resources to enforce the orders of the courts.’

It is therefore the duty of the State to create proper structures by means of legislation and officials to support and to protect the courts in fulfilling their functions. But, where in a particular case it is clear that the existing institutions are not effective or cannot be effective, or where existing measures which would normally be used in that case, are ineffective, then it is imperative, in terms of section 165(4) of the Constitution, the organs of State apply other measures that can be effectively utilised. This is exactly why section 165(4) refers to ‘other measures’.

These ‘other measures’ are not necessarily measures that are specifically designed to protect the courts. If policies and programmes exist which can guarantee the enforcement of a court’s order, then there is a duty to apply them to ensure the effectiveness of the court. The effectiveness of the courts, after all, depends upon the respect of the organs of state as well as the people.

The functions and capacities bestowed on state departments and administrations (including the Municipality), both statutory and otherwise, include measures which allow the State to fulfil the obligations placed on them in terms of the Constitution to ensure the effectiveness of the court’s order and to give expression to Modderklip’s rights in the Bill of Rights.

The judgement specifically rejects the argument by the Government’s legal representative that the State has no responsibility in respect of the alternative accommodation or the resettlement of the unlawful occupiers, as long as the State has a statutory framework, policy and programmes to address the question of land reform. Section 165(4) requires not only policy measures but also the reasonable and effective execution thereof. What has been said by the Constitutional Court with respect to the socio-economic rights is *mutates mutandis* also applicable in respect of land reform: Mere legislation is not enough - the State is obliged to act to achieve the intended result, and the legislative measures will invariably have to be supported by appropriate, well-directed policies and programmes implemented by the Executive. Section 85 of the Constitution places the obligations on the President and the other members of cabinet to jointly co-ordinate the functions of state departments and administrations.

### **The court's findings in respect of the present matter.**

Section 7(2) of the Constitution reads as follows: 'The state must respect, protect, promote and fulfil the rights in the Bill of Rights.' It implies that the State must ensure that an effective remedy exists for the protection of these rights. It cannot be disputed that the squatters infringed Modderklip's rights as set out in section 25 of the Constitution.

The problem that arose in this case is no longer a question of just a civil matter between Modderklip and the squatters, as the Minister for Safety and Security said. That is not in keeping with the reality of the situation. It can not be seen as merely a case where the appropriate organs of state can turn their backs on the applicant to wrestle with this problem alone. The cardinal question is the effective execution of an order of the court and the enforcement of the fundamental value of the supremacy of the law, while ensuring that Modderklip is not denied the ownership of his property in conflict with his rights entrenched in the Bill of Rights.

The matter is a classic case of an 'illegal land-grab', which brings the whole question of the supremacy of the law to the fore. The 1998 Act is being emasculated without the support of the State in the enforcement of the eviction order. It is in the public interest that this form of land grab is urgently and immediately stopped and that the appropriate organs of state are constitutionally obligated to play their parts. In this process, Modderklip is *de facto* being dispossessed in a manner which threatened the cornerstones of the Constitution, leading to chaos. The state's authority is contemptuously being disregarded by the squatters, while the particular organs of state simply ignore their constitutional obligations - the result is unavoidably political chaos and the denial of the Constitution.

The essential question is whether it can be tolerated that the Government admittedly left the applicant to his lot despite the public interest involved in this matter. A private landowner who is a law-abiding citizen and who by his own sweat and blood has acquired his land, is being left with the responsibility ensuring that the squatters are removed at his own expense. In this matter prepayment of the sum of R2 million is requested by the Sheriff before the eviction process of approximately 36 000 people will begin. A further practical problem arises, namely where the squatters and their property will be removed to. If the appropriate organs of state are not involved in this process, the same people may return a day or so later and the same process will recur, to his detriment. What about the private landowner who does not have the capacity to pay sums of this nature? The value of the land may, for example, be considerably less than the costs demanded from the owner, which is the case in the present matter. The passive observance by the authorities is therefore catastrophic for a landowner, against the public interest and contrary to the underlying values and provisions of the Constitution.

As far as the Police are concerned, the statutory capabilities and measures required by them to ensure the effective execution of the order of court do exist:

1. Section 205(3) of the Constitution provides that one of the goals of the police service is to protect and secure the citizens of the Republic as well as their property and to

uphold the law and apply it.

2. Section 205(2) of the Constitution provides further that the national legislation must be such that it empowers the police service to effectively meet its responsibilities.
3. The constitutional goal mentioned above is also contained in the preamble of the South African Police Services Act, No 68 of 1995. The legislature created the necessary provision to allow the SAPS as an organ of state to guarantee the effectiveness of the courts, as well as orders of the courts granted to protect property and enforce the fundamental rights guaranteed in the Bill of Rights - see section 14, read with section 13(1) and (3)(a) and 26.

As far as the Minister of Agriculture and Land Affairs, the Minister of Housing and also the Municipality are concerned, the necessary legislative and other measures also exist to allow these organs of state to guarantee the effectiveness of the courts and in particular to take the necessary steps to provide effective execution of the court order:

1. In terms of existing legislation the premier of a province can designate state land or other land that can be obtained for the development of informal settlements. The local authority can also make land available for designation. The province can therefore designate land for expropriation if necessary. If there is an urgent need to acquire land, the premier can by notice in the official gazette make land available or designate land for informal settlement. Laws with respect to the establishment of townships and town planning are not applicable. This is therefore a very effective weapon by means of which immediate settlement can take place.
2. The Minister of Agriculture and Land Affairs has wide powers with respect to the availability of land so that problems of this nature can be properly addressed and effective execution of the court order can take place. The mechanisms with respect to the acquisition and availability of land can be exercised in terms of the Expropriation Act, No 63 of 1975.
3. The Minister of Housing also has the necessary capacities to assist in ensuring that the court order is effectively executed. From the Housing Act, No 107 of 1997, it appears that a municipality in whose jurisdiction the land is situated, is obligated to exercise the functions that are necessary to facilitate the effective execution of the court order. The necessary expropriation capacities are available with which these organs of state can in a practical manner come forward as stakeholders to solve this problem.
4. The whole question of the co-ordination of the housing programmes which the executive authority and its national, provincial and local branches have set out, are available for application by these respondents in compliance with the constitutional obligations referred to above.
5. The Government is not seeing the realities of the matter and chooses to ignore it as a private issue, where the question of the resettlement of the unlawful occupiers is not linked to the effective execution of the eviction order of the court.

The essence of the problem is precisely what should happen to the unlawful occupiers in

the execution of the court's eviction order. This problem, which is facing the authorities directly, is closely linked to the effective execution of the court order. The argument by the Government that the only obligations it has is to provide for the establishment of the necessary legal structures by which Modderklip can enforce his rights and protect them properly, is therefore rejected. The effective execution of the court's eviction order cannot be divorced from the question of whether the State's policy and programmes were reasonable and complied with the State's constitutional obligations.

Although the necessary statutory capacities and measures are in fact available to enable the executive authority and its branches - national, provincial and local - to assist the court in the effective execution of the court order, it appeared that the Government has done nothing to effect the resettlement of the squatters: no viability studies for their resettlement has been conducted, their removal has not been prioritised, it has not been decided where they should be resettled, and no programme has been formulated for the resettlement.

The court cannot tolerate a situation where the court's orders are not effectively executed, because the appropriate organs of state fail to perform the necessary functions imposed on them by the law, where the necessary measures exist to allow the execution of the court order, as the Constitution orders them to do. In the words of a Zimbabwean judgement: 'The reality is that the government is unwilling to carry out a sustainable program of land reform in terms of its own law. The first thing to be done is to return to lawfulness. A huge problem has been created. Thousands of people have been permitted ... to invade properties unlawfully. They have no right to be there. The situation will not be easy to resolve, but it must be resolved. Either their presence must be legalised, or they must be removed.'

In terms of sections 38 and 172(1)(a) and (b) of the Constitution the court has to provide appropriate relief where a fundamental right was infringed. The court has a wide discretion to formulate appropriate relief. In terms of section 173 the court also has an inherent authority, taking into consideration the interests of justice, to protect its own process and to develop the common law. Also, in terms of section 172 the court can make any order that is fair and just. The court can therefore provide an appropriate remedy within its discretion for the particular situation where a fundamental right is infringed. This remedy could in certain circumstances imply that organs of state can be ordered to apply their statutory powers to protect the rights in the Bill of Rights (section 7(2)) or protect the court's effectiveness (section 165(4)).

The court also has to take into consideration that the existing institution created by the State to execute an order of court, namely the Sheriff, is ineffective in case of the theft of land which attacks the pillars of the Constitution and which amounts to rule by the masses, intimidation and destruction of democracy. There exist competent authorities that, properly co-ordinated, can ensure that the court order is enforced effectively. The refusal by the State to properly use these capabilities is a refusal to maintain a democratic state - something that totally undermines the Constitution and leads to the collapse of the values of an open and democratic society and the supremacy of the law.

The Court therefore finds that under these circumstances it can provide the appropriate legal remedies to uphold the fundamental right in section 25 of the Constitution and the pillars thereof. Any order should be aimed at the solution of the problem in a co-ordinated manner while using the existing statutory capacities, policy and programmes.

### **The declaratory order of the court**

As part of its declaratory order, the Court made the following findings:

1. Section 25 of the Constitution provided that no one can be deprived of his property, save in terms of a generally applicable law, and then only in public interest and at a fair compensation. Modderklip's rights in this regard are infringed by the squatters' refusal to evacuate the particular land in terms of the eviction order of 12 April 2001.
2. The Government was obliged in terms of section 26(1) and (2) read with 25(5) of the Constitution to take reasonable measures within its available resources to give effect to the squatters' right to suitable housing and land.
3. The Government was obliged in terms of section 165(4) of the Constitution to put in place the necessary measures to support and protect the court to ensure the effective execution of the eviction order.
4. The Government did not fulfil its obligations set out above, nor its obligation in terms of section 7(2) of the Constitution to protect Modderklip's fundamental rights with respect to the unlawful occupation of its land.
5. Specifically, the Minister and National Commissioner of Police did not fulfil their obligations in terms of section 205(3) of the Constitution, read with section 14 of the SA Police Service Act, No 68 of 1995, in that they had failed to properly investigate the charges against the squatters with a view to criminal prosecution and had failed to protect Modderklip's property.
6. The Government's existing policy, actions and programmes in respect of the matter fell short of their constitutional obligations in that:
  - (a) It did not make provision for the prioritisation of a project or projects for the resettlement of the squatters under circumstances where Modderklip's rights in terms of section 25 of the Constitution are infringed upon and where an order of court exists for the immediate eviction of the squatters.
  - (b) It did not provide for the execution of the government's obligations in terms of section 165(4) of the Constitution.
  - (c) It created and tolerated the *de facto* expropriation of Modderklip's land.
  - (d) Contrary to section 9 of the Constitution, Modderklip was being treated unequally in that he as an individual had to bear the burden of the squatters' occupation of his land on behalf of society.

The court finally ordered the Government to deliver a comprehensive plan to the Court on or before 28 February 2003, in which provision is made for:

- (a) the termination of the infringement of Modderklip's rights by the squatters within a reasonable timeframe, whether by expropriation of the applicant's land or otherwise;
- (b) compliance by the Government with its obligations in terms of section 25(5) read with sections 26(1) and (2) of the Constitution;
- (c) prioritisation of a scheme or schemes for the provision of housing, alternatively access to land, for those squatters who qualify therefore;
- (d) removal of the squatters who do not qualify as mentioned above; and
- (e) monitoring the implementation of the abovementioned plan.

The court order further made provision for the various parties to the case to comment on the above plan, after which the Court could once more be approached to make a final decision.

In conclusion the Court ordered the Government to pay all the legal costs of Modderklip Boerdery as well as some of those of the *amicus curiae*.

#### **Comments on the Modderklip matter.**

The State has now taken the Modderklip judgement on appeal. No date for the hearing of the appeal in the Appeal Court in Bloemfontein has been determined yet.

Finally, it should be noted that during the court proceedings reference was also made to the so-called Bredell matter, where squatting took place on the other side of Daveyton a few kilometres away from Modder East. The squatters occupied land that the Government co-owned and the Government brought an application to the Court for the eviction of the squatters during July 2001. The eviction order was granted. When the two day period expired the Sheriff of the Court together with the private company and a large police presence went in and removed the squatters and their property. When the court granted the eviction order, the Court stated that it was only 'right and fair' to evict the squatters, considering among other things, the blatant invasion of the property, the short stay on the property and the probability that the squatters could return to where they had come from.

#### **GENERAL COMMENTS**

The illegal occupation of farmland obviously poses a serious threat to farming as a commercial enterprise. It inevitably leads to theft of livestock, crops, fencing, equipment, etc. Nevertheless, it cannot be described as a farm attack *per se*. However, the case studies above show that the illegal occupation of land frequently leads to farm attacks in

the narrow sense of the word. If the farmer attempts to resist the infringement on his property, even by legal means, the result is very frequently intimidation of some kind which, by definition, is a farm attack. Furthermore, the end result is often robbery and murder, i.e. farm attacks in the narrow sense of the word. The illegal occupation of land is therefore one of the major causes of farm attacks.

It is obvious that the question of land has become an enormous problem. It may well become a bigger threat to the farming community than the problem of farm attacks in the narrow sense of the word.

## **CHAPTER 6**

### **CASE STUDIES: LAND INVASIONS**

#### **INTRODUCTION**

On 2001-08-20 Ms Pat Dunn, the chairperson of the Mangete Landowners' Association, made a presentation to the committee on the illegal occupation of farm land belonging to members of the Association. The Committee also became aware of other, similar cases in which farm land had been illegally occupied, especially in KwaZulu-Natal, and it was agreed that three Committee members would make a field trip to KZN and visit affected areas. The three Committee members travelled to Mangete (about 100 km north of Durban) and Nonoti (about 80 km north of Durban) on 2002-06-24, and to Nqabeni (about 180 km from Durban, to the south) the next day. Although, because of time constraints, it was not possible to visit another area where intimidation of farmers appears land-related, viz. the Verulam policing area, press reports were followed up with the reporters concerned, and the station commissioner at the local police station was interviewed telephonically. Subsequent to the visit by members to KZN, the attention of the committee was drawn, at the end of August 2002, to threats of further invasion of farm land in the Kranskop area of KZN where, it transpired, encroachment on farm land had been taking place for several years.

At the request of the Committee, Agri SA and the Transvaal Agricultural Union made further submissions on the problem of land occupation. As a result of that two other committee members visited the Daveyton area in Gauteng on 2002-08-01, where a large number of illegal residents had made their home on a farm.

#### **MANGETE**

##### **Submission by the Mangete Landowners Association**

According to Ms Dunn the Mangete Landowners' Association was formed in 1995. This Association represents the farming community in Mangete, near the KZN north coast town of Mandeni, whether or not members of the community actually engage in farming activities. The area in question, also known as Dunn Land, is owned by descendants of 19<sup>th</sup> century settler John Dunn, who died in 1895, leaving numerous children, as he was polygamously married to many Zulu wives. In total, the area in question is the equivalent of one large commercial farm. It is divided into sixty three farms, with farming activities centering mainly on sugar cane.

Ms Dunn informed the Committee that illegal occupants had been moving on to this privately owned land since 1993, erecting homes, including substantial block structures. The illegal occupants appeared to be acting on the instructions of a traditional leader in the area adjoining Mangete. The landowners turned to the law to protect their interests

and in 1995 launched an action in the High Court for the eviction of the squatters, which resulted in a formal land claim to Dunn Land being submitted by *Inkosi* Mathaba on behalf of the Macambini tribe who occupy the neighbouring area. As a result of the submission of this claim the High Court action was suspended while the claim was in progress. The claim itself was referred by the then Regional Land Claims Commissioner to the Land Claims Court for adjudication.

Despite the fact that the Restitution of Land Rights Act of 1994 makes it an offence to invade land which is subject to a claim, nothing was done about the illegal occupants, and the invasions continued. Many of the squatters were not even members of the Macambini tribe, having come to the area from elsewhere. Approximately one thousand families were living illegally on the land, and less than one third of these squatters were claimants. At the beginning of June 2001 the Mangete Landowners' Association, bowing to pressure from the Regional Land Claims Commissioner and a number of politicians, agreed to defer proceedings in the Land Claims Court with a view to seeking an out of court settlement of the land claim in negotiations with affected parties.

The invasions and the subsequent land claim had dire consequences for the owners of the land in Mangete. Not only were they to develop the land once the claim had been lodged, but since the early days of the invasions they experienced numerous incidents of threat to their lives and properties, intimidation, and arson, which seriously jeopardised their safety and their livelihoods. Not only were sugar cane crops regularly burnt, with all the attendant financial consequences, but in April 2001 the community hall, built by the farmers, was completely destroyed by arson. Ms Dunn herself was held up by armed men at her home during March 2001. They stole valuables, and drove her car away; it was later found abandoned on N2 road, its engine seized. The Mangete Landowners' Association ensured that all incidents were reported to the SAPS and that the Regional Land Claims Commission, which was processing the claim, was kept fully updated with regular reports. However, nothing was being done to remedy the situation.

Ms Dunn gave detailed information to the Committee about illegal building operations, robbery, violence and intimidation of legal owners, and malicious damage to property or arson. She also handed over twelve reports compiled by the Mangete Landowners' Association during 1998 and 1999. Details of more recent (2000/2001) incidents were also provided, including twenty seven with the relevant SAPS CAS numbers. Among the victims of violent crime in the area were children, who were constantly harassed when walking to and from school. On 3 November 2000 a nine year old pupil at Mangete Primary school was raped on her way home, and another woman was raped in her home in January 2001. Cattle belonging to illegal occupants caused damage to crops and vegetation, and some squatters were allegedly illegally harvesting the sugar cane crops of the owners of the property. On 2001-02-19 a squatter led a blockade of the main access road to Mangete, and there was another blockade of a side road on 8 March 2001

**Field visit to the area on 2001-06-24**

The three Committee members were taken for a brief tour of some of the invaded areas, and also visited the burnt out community hall. The roads were bad, and the land owners were experiencing problems in having them maintained - yet squatters appeared to have easy access to graders to have roads to their homes made and maintained. The members paid a visit to the farm of Ms Joan Dunn, from where there was a good view of a large number of homes which had been built by illegal occupants. The farm on which the building had been taking place was a deceased estate, and Joan had previously leased it herself and farmed cane on it - which was no longer possible. According to these illegal occupants, who were not even claimants, they had been put there by a local *induna* (headman) of the chief. New houses were constantly being built. On Joan Dunn's own farm her sugar cane crop had been burnt. The committee members also met with Mr Lyndon Dunn, who was experiencing similar problems, and the party stopped near the site of the grave of Catherine Dunn, a wife of John Dunn. A guest house which had previously stood at that site, which had been used to accommodate members of the 19<sup>th</sup> century colonial government, had been demolished by the squatters, who had used the material for their own buildings.

### **Developments in Mangete since the visit by the Committee**

During subsequent interviews Ms Dunn kept the Committee abreast of developments. On 2002-06-09 fires on six different, geographically separated, farms - all having illegal occupants living in their vicinity - caused around one million rand worth of damage to sugar cane crops and destroyed outbuildings on farms. Homesteads on farms were also threatened but were saved by the timely intervention of farmers who battled the flames throughout the night. Although similar fires, especially during the dry June and July months, had occurred since the earliest days of illegal occupations, Mr Lyndon Dunn, with whom the committee members had met two weeks earlier, was quoted in a local newspaper as saying: 'I have lived here all my life, but what is happening here tonight is the worst I have seen. There seem to be fires everywhere.'

A spokesperson for the SAPS denied that the fires were the work of an arsonist, claiming that they had been started by a carelessly discarded cigarette - a claim which was flatly denied by Mangete landowners. Publicly challenging this explanation in a letter to the press, Pat Dunn pointed out that the 'magic cigarette' would have had to have 'flown backwards from the north against a southerly gale force wind, avoiding dozens of farms on its way, to land 10km away on a farm in the southernmost part of Mangete'. Why, she asked, had the accounts of eyewitnesses who saw the source of fire as being from an informal settlement above the farmhouse, been ignored by the police? Mangete landowners were unhappy with the police response in general, alleging that before issuing a statement to the media that the fires were probably caused by the burning cigarette the police, despite going to the area after being informed about the fires, had not bothered to travel to the specific farms where the fires were raging to speak with the owners, who were busy trying to put out the fires.

The Mangete Landowners' Association was also very unhappy with the conduct of the

office of the Regional Land Claims Commissioner. In February 2002 Ms Dunn wrote to the National Minister of Agriculture and Land Affairs, sending a copy of the letter to offices of the President and a number of national and provincial ministers and functionaries, detailing the failure of that office to honour undertakings which had been made when the court case had originally been postponed and spelling out in detail the type of problems which were being experienced.

In November 2002 the Association decided that, since there appeared to be no progress in settling the dispute, it was imperative that the court proceedings should resume. However, at a pre-trial hearing that month, which the Land Claims Commissioner failed to attend, the Association was persuaded to postpone the court case once again. Later that month the Regional Land Claims Commissioner announced what she termed an 'open ended' settlement in terms of section 42D of the Restitution of Land Rights Act, No 22 of 1994, which involved the expenditure of several million rand to purchase land in and around the area. Mangete landowners were at a loss to understand how there could have been a settlement when they themselves had not been consulted, and alleged gross procedural irregularities, in that the Commission had been approaching individual landowners with a view to pressurising them to sell their land. The public statement released by the Commission provided no clarification concerning crucial questions arising out of the purported settlement: Were all the claimants agreeable, and had they agreed to move? What was the position concerning the non-claimants? While the media release had focussed on the purchase of land, there was no information about whether there were funds for the re-settlement of all the illegal occupants, and the re-building of their houses. Nor was it clear whether there could even be a settlement when the validity of the claim had not been established in the first place.

When the court case, scheduled for April 2003, was postponed yet again, members of the Landowners' Association planned a meeting to decide the way forward. However, before the meeting could be held Pat Dunn and her husband, Mr John Hunt, were attacked at their Mangete home by four armed intruders during the early hours of the morning of 2003-04. John Hunt was shot and seriously injured, and Pat Dunn was badly beaten. The couple's dogs, and dogs belonging to family members on other nearby farms, had been poisoned. Hunt had managed to activate the alarm system and the robbers fled with the couple's cellphones, cash and other valuables. Pat Dunn's car was also taken, but was later found abandoned in a nearby township.

Hunt's injuries were very serious, but he survived and is in the process of slowly recovering, but the attack has left Pat Dunn severely traumatised - especially as it was the second attack on her, in her own home, in just over two years (see above). Furthermore, she had previously been warned by workers that there was talk that her husband (rather than she herself) would be killed.

The police have arrested three men, and a fourth suspect is still outstanding. They maintain that the motive was purely robbery - but given the warnings, and the fact that the chief in the neighbouring area is widely alleged to have known criminals close to him, the victims themselves, and members of their community, believe that the attack was

linked to the land dispute.

## **NONOTI**

The Nonoti area, which lies south of the Tugela river, north of the town of kwaDukuza, has historically been farmed by Indian farmers, some of whom are believed to have owned the land since the end of 19<sup>th</sup> century. According to a press report illegal occupants had been moving on to the private farmland for ten or more years, and invasions had intensified before the 1994 elections. One of those believed to be responsible for settling people on the land had claimed that the land had belonged to his father, and had started selling land to people while farmers were still on the land - forcing them to abandon their farms in fear of their lives. The man was subsequently charged for fraud but died before the trial was finalised. Farming activities has become impossible for many. For example, in 2001 a KwaDukuza councillor, Madhan Singh, moved out of the area after his wife was held up at gunpoint by a gang of armed men; he was, however, still the legal owner.

After visiting Mangete, the committee members travelled to Nonoti on 24 June, and met with Mr Narain Harikrishna, chairperson of the local Farmers' Association. He confirmed that the invasions had started ten or more years previously, and that at least twenty individual small-scale sugar cane farmers had been affected. Farmers had tried to use legal means to deal with the situation, including through obtaining court interdicts, but the police were not prepared to implement them. He estimated that at least 400 to 500 hectare of land was affected, and says that the theft of crops (sugar cane and, especially, food crops) was rife from farms where farming activities continued. Some farmers were prepared to sell land to Land Affairs and there were currently some negotiations in progress. The previous Minister of Land Affairs had purchased land at the mouth of the Nonoti River to accommodate some of the illegal occupants, but the number of invaders kept growing, as did the extent of the land being occupied in areas other than the Nonoti River mouth. People were reportedly selling land, and occupants were not necessarily from the area; some might be from as far afield as the Transkei region. Mr Harikrishna was aware of land claims involving white-owned farms a little further away, in the Doringkop area. Mr Harikrishna drove with the Committee members to view the affected area: What had, a mere few years ago, been farmland now appeared to be one large informal settlement.

An increase in crime in the area was attributed to squatters by persons interviewed by a *Sunday Times* journalist the month following on the visit to the area by the Committee members. Jeewan Makaardood, a farmer and chairman of the Nonoti Farm Watch, is quoted as saying 'We are being robbed of our livelihood. Squatters are building their homes on land that should have been used for farming. Our crops are being destroyed.' The number of farmers in the area dwindled considerably during the previous past three years, and farmers still in the area were feeling very threatened. According to this report, farms further afield were also affected: Another farmer, Thej Singh, had had to abandon his farm near the Tugela River, about 20km from Nonoti, two years previously, and his

land had been stripped completely. Crime had become so bad that farmers were forced to tend their farms with armed guards watching over them. At a meeting the previous week (mid July 2002) farmers claimed that one of the squatters was illegally subdividing abandoned farms and selling them for about R100 a plot. The farmers also alleged that he was reputed to sell plots in exchange for alcohol. The farmers claimed that the provincial minister, the MEC for Agriculture, had suggested that farmers 'negotiate' with the land invaders.

Fear levels increased when a shopkeeper, Mr Rajoo Naicker, aged 68, was shot dead on 2002-08-25 when he was forced at gunpoint to open the Sotsha Store which he operated on his farm in nearby Doornkop. His brother, Mr Chinsamy Naicker, aged 65, was shot and seriously injured.

## **NQABENI**

Prior to the visit by Committee members, one of the members interviewed some of the farmers in the Nqabeni area, which lies between Izingolweni and Harding on the KwaZulu-Natal South Coast, telephonically. The Committee member also visited Mr Simon Joyce and his mother-in-law, Ms Iris Fynn, in their Durban flat. The latter was the legal owner of a farm in Nqabeni, which had been allocated to her farther in 1910. Mr Joyce managed the farm on her behalf and the family had lived on the farm until a few years ago, but had to move to Durban because of intimidation and violence from illegal occupants.

Mr Joyce says that around 1994 the family of a worker who had been displaced from another farm, moved on to theirs, but now there are many families there. In 1996 Mr Joyce, using local attorneys, obtained an eviction order, which has been served on the illegal occupants. However, when the local sheriff went to move the occupants he was shot at, and that was the end of the attempt to move them. A relative of the family and his wife, who also farmed in the area, was also been shot at by illegal occupants on their farm. The SAPS has confirmed to the Committee that a certain Mnganyelwa Jali was charged with attempted murder in 1996, but that the public prosecutor withdrew the case for some unknown reason. Attempts were then made to put the case back on the court roll but it was later established that the accused was deceased.

The three Committee members travelled to Nqabeni on 2002-07-25, where they had a meeting with local farmers of the Nqabeni Farmers' Association. The meeting, chaired by the president of the Association, Mr Mitchell Lawrence, was well attended and a number of those present spoke about their own personal experiences, and those of other people, with regard to land ownership and encroachment.

As with Mangete, the farms which have been invaded are owned by persons formerly classified as 'coloured'; some plots have been owned by a particular family for generations. They are adjacent to the Mtimudi tribal area, headed by a traditional leader, Chief Mavundla. There are also some white farmers in the area. The farmers told

Committee members that their farms had previously extended all the way to Harding, but because of encroachment by squatters only a portion of the original area was left and that was now also under threat.

It was believed that 'coloured' occupation of Nqabeni (as opposed to it being a tribal reserve area) dated to the time of Queen Victoria. However, the legal status of the land varied - many farmers had title deeds, but some of the land was designated as trust land. For example, the Fynn family had long lived in the area, and Mr Francis Fynn addressed the meeting about the family's continuing struggle to secure title deeds. He had even led a deputation to Pretoria in 1993 in an unsuccessful attempt to sort the matter out. The influx of illegal occupants on to 'coloured' land had already started then, and it was particularly bad between 1993 and 1998. The Fynn family's land was divided into lots. Some of the lots had squatters living on them, and the chief of the neighbouring area (Mavundla) was claiming them. However, people from other tribal areas were living there, and were reportedly being charged (illegally) for doing so.

Farmers with title deeds to land were also experiencing problems. For example, Mr Ogle bought the farm Brookside in August 1999. There were two families living on the property at that stage and Mr Ogle was told that they would be leaving the farm (but they did not). He began to invest money to set up a farming infrastructure and to renovate the house his family was to live in. A few months later he noticed that fencing and poles were being removed by people from the neighbouring Celebane (tribal) ward, but when he confronted the people responsible and tried to reason with them they refused to listen and became more hostile, and more people settled on his land. His staff were threatened with violence, and he was warned that his tractors would be burned. He then contacted the chief's *induna* (headman) in the area, and was informed that it was tribal land, and that the *induna* was carrying out orders of the chief to settle people on the land. Mr Ogle then made contact with the chief, who provided a letter in Zulu saying that the *induna* could not settle any more people on the farm until the dispute had been resolved. According to a newspaper article handed to the Committee, three other farms near the Celebane ward were also similarly affected. Threats to Mr Ogle continued, and staff were no longer prepared to work for him because of the intimidation and harassment from illegal occupants. Although reports were made to the police they failed to intervene effectively, despite Mr Ogle having sought and obtained a court order. He also approached the Department of Land Affairs and the person he saw said he would look into it, but heard nothing further. As relationships deteriorated further, the Ogle family felt increasingly unsafe, and on 2000-01-17 Mrs Ogle was attacked by several gunmen and shot, kicked, stabbed and left for dead. According to Mr Ogle the police was called but arrived only an hour later.

The chief continued to claim the land, and squatters had erected solid structures with tiled roofs on them. Mr and Mrs Ogle have moved to Port Shepstone, but continued to re-pay the loan they took to buy the farm, despite not being able to continue with farming. The farm has been leased to Mr Abrahams, whose own farm adjoins that of the Ogles. His crops have been burnt, and he has been told that if he stopped cultivating the burning will stop.

A number of other farms, including those owned by members of the Fynn, Gruit, and Manning families, had experienced similar problems, including the constant threat of violence. Winston Fynn had lost 3.5 km of fencing, which had been cut up and left lying around. The police could not assist, saying there was not enough evidence. The illegal occupants were also over-grazing the land. There was a great deal of stock theft, even in broad daylight.

At the beginning of 2002 Veronica Narainsamy had been driving home from her shop to her farm, through a cane farm. When she got out of her car to open a boundary gate two youngsters with guns attacked and assaulted her. They took money and the motive appeared to be robbery.

Farmers perceived racial overtones to what was happening. A farm near the Ogle farm had been bought by a former police member who was black and there were no squatters on his farm. Nor had white farms in the area, Illovo Sugar company farms, or a government farm, been invaded.

There had been various attempts to seek assistance from the Department of Land Affairs. On two occasions meetings had been arranged and farmers had travelled to Harding, but no one from the Department had turned up. Land Affairs had made it clear to the farmers that the government would not move squatters, for it would create problems if they did so. However, the government would buy land if people wanted to sell it.

The farmers were now part of a Farm Watch cell together with local white farmers.

## **VERULAM / HAZELMERE**

The attention of the Committee was also drawn to the encroachment on Indian owned farms by squatters in the Verulam/Hazelmere area, between Durban and Tongaat, by a newspaper report about an attack on Mr Moonsami Govender (aged 70) and his wife Manogari (61) in January 2002. There were also a number of other attacks on small-scale farmers in this Verulam/Tonga area: Mr Velayutha Gounden (67) and his family were terrorised by three men on their farm in the Verulam area and their house was ransacked in April 2002, and Mr Kesavan Govender was shot dead at his farmhouse in the same area at the end of June 2002. On 2002-10-12 Mr Balasundrum Naicker (44) was shot dead at his Tongaat farm early in the morning when he went to the rescue of his wife who was being attacked while removing an item from the washing line. Their son was critically injured in the same attack. African farmers, too, may be victims in these areas: on 2001-12-09 Tongaat farmer Bheka Mbuze, 38, was shot in the head and seriously injured while sitting in the kitchen of his home.

Unfortunately there was insufficient time to travel to the area during the two-day field visit by the three Committee members. One member did interview the newspaper reporter who was covering events in the area, and also telephonically interviewed the local station

commissioner at Verulam SAPS.

According to a report in the Durban-based newspaper *Post*, Mr and Mrs Govender and their 18 year old son underwent a terrifying two hour ordeal during the early morning hours of 2002-01-18 when eleven thugs armed with bush knives attacked them on their pineapple and curry leaf farm outside the town of Verulam. While trying to gain access to the Govenders's wood and iron home, the attackers reportedly told them: 'The farm belongs to us. You cannot do anything to stop us. Today is your last day. We are going to finish you and your family'. Mrs Govender had a brick hurled in the face, and her husband almost lost two fingers when he was slashed with a panga. Mrs Govender managed to activate the farm siren, which alerted neighbours, and the attackers fled. The police arrived and took the couple to hospital for treatment. When they returned from hospital later on Friday, they found that their house had been stripped completely and all their possessions stolen - furniture, jewellery, clothing, electrical tools, light fittings and window frames. The Govenders abandoned their property and moved into Verulam to live with their daughter.

Several months later, another reporter interviewed farmers in the Hazelmere/Verulam area, and noted that farmers - many of whom had farmed in the area for generations - were robbed of their produce, and suffered regular burglaries and hijackings. The chairman of the Verulam and District Farm Watch suggested that local Indian farmers were 'very trusting' and lacked alarms and burglar guards, and definitely needed to tighten up on security, in the face of what another executive member of the local Farm Watch described as a '200%' increase in crime during 2002.

According to the reporter who wrote the article on the January 2002 attack on the Govender family the situation remains unchanged; people continued, during early 2003, to telephone his newspaper complaining about theft (e.g. their vegetables being stolen), and their children being mugged when travelling to school. He claimed that the police found it difficult to operate in the area because some of those making trouble were well armed.

The Verulam station commissioner confirmed to the Committee in March 2003 that there were housebreakings, and that the situation was tense. He said that the police were patrolling the affected area. Squatting was taking place on some farms, including in the Buffelsdraai area. For example, squatters had moved on to the farm of a Mr V K Govender and were threatening to kill him. The illegal occupants came from kwaMashu and Inanda (nearby black -occupied areas) and there were also Xhosa people from the Transkei. It was alleged that one of the men behind these invasions was selling land which was not legally his.

## **KRANSKOP**

On 24 August 2002-08-24 white farmers in the Kranskop area were handed a memorandum from the local amaNgcolosi Tribal Authority, which borders on

commercial farm land. The memorandum was headed 'Reasons that lead to a decision to chase the Whites out of the area', and explained why it had been necessary to take this decision.

The precipitating factor which led to this protest, and to farmers expressing fears that they would be targeted for 'Zimbabwe-style' land invasions, appears to have been the shooting dead of an alleged poacher on one of the farms on 2002-08-09, by security guards hired by local farmers. The memorandum was handed to the chairman of the local Farmers' Association, Mr Rolf Konigkramer, by an estimated crowd of 200 to 300 protesters, and listed the following problems facing community members:

- the impounding of goats and cattle,
- the killing of donkeys,
- the shooting of innocent civilians by white security guards,
- the pointing of firearms at people using the road passing near 'the farm', and
- the discovery of bones in the bush and sugar cane fields on the farms of persons who had allegedly been killed by whites and their security guards.

'We beg not to be misunderstood, we don't mean we don't want the Whites' the memorandum continues, 'we are just asking for them to be removed from our society'. Resolutions taken by the community at a meeting held on 2002-08-13 are listed as follows:

1. 'We don't need the Whites in the in the area and we ask them not to come beyond Kranskop. They must stay 10 kilometres away from us.
2. Whoever came with sugar cane [interpreted as a reference to Indian sugar cane farmers in the area] he/she must take it away, whoever came with the soil/land he/she must take it away and leave the Tribal land.
3. We don't need security guards
4. We don't want the whites to go to Shushu even if they are going for fishing we don't want them
5. We don't want whites to go to Die Kop (Etsheni likaNtumjambili)
6. We are asking the Station Commander to go and fetch any Whites at Shushu right now if there are any
7. The cattle, goats and the donkeys that were pounded and those that were killed we want them back
8. From now on we demand that no cattle, no goat and no donkeys are pounded
9. We want all our demands to be met and complied with within a month that include the return of cattle, goats and donkeys and their removal (sic)
10. Failing which we will be up in arms as we are not scared of anyone
11. We are appealing to the National Minister of Land Affairs to intervene in this matter'

## **Background to the events of August 2002**

Before describing the events which followed on the handing over of the memorandum as detailed in information given to the Committee by farmers and other interested parties, and published in the media, it should be noted that there had been other reported incidents of violence and intimidation in the area in recent years:

In September 1997 four pregnant cows, valued at about R45 000, were driven off Esperance Farm into a neighbouring plantation, where they were gunned down with AK47 rifles and chopped up for the meat to be sold. Although stock theft was rife in the area, it was the first time that cattle had been gunned down in this way.

In December 1998 farmer Friedl Redinger was ambushed and shot dead on his farm, near the border with the Ngqolosi area. The case is described in greater detail elsewhere.

In 1998 local medical practitioner Dr Alois Mngadi bought a farm in the Kranskop area intending to develop it for tourism purposes with the help of the local community. However, in April 2000 members of the community invaded his land and started clearing bush to make way for homes they intended building. Following a meeting with the local chief he abandoned his plans for it was 'clear at the meeting that if (he) didn't co-operate, they'd invade (his) farm'. According to Dr Mngadi his farm was surrounded by Druten Ranch, the farm on which the shooting of the alleged poacher occurred in August 2002, and he was expecting to sell it to the same group which had shown interest in purchasing Druten Ranch.

## **Information received by the committee about the events of August 2002**

Details about the protest action and the circumstances under which it took place were provided to the Committee by Mr Edsel Hohls, the chairman for safety and security for the KwaZulu-Natal Agricultural Union (Kwanalu). In addition the Committee had telephonic interviews with other interested parties, including a member of the local farming community who preferred to remain anonymous, about the circumstances which gave rise to the protest action. The Committee also perused several press reports on the matter.

According to Mr Hohls, and others cited in press reports, farmers experienced a huge poaching problem. It was alleged that one of the organisers of the protest of 24 August was himself facing poaching charges, and that the campaign against the farmers had started after this person had been caught poaching. The police, too, confirmed that poaching was 'rife in the district.' The alleged poacher, Njabulo Bhengu (aged 19) was shot dead and two of his companions injured on 9 August, during a skirmish with security guards employed by local farmers. The aim of the security guards allegedly was 'to find out the whereabouts and modus operandi of the poachers.' The guards reportedly encountered a group of poachers, including the deceased, carrying the carcass of a female bush buck (a protected species). According to the police, they initially believed that there had been a 'battle between rival poaching gangs', and they only became aware of the involvement of the security guards many hours later, following a report from the security

firm concerned, which voluntarily handed in the weapon used by the guard, Mr Sibongiseni Nzimande, who was then charged with murder. Farmers claimed that, in their response to this incident, the police acted in a partisan manner, in that the alleged poachers were still at large, and had not appeared in court to face counter charges. In response, the police pointed out that in addition to the murder charge, a case of attempted murder, poaching and trespassing had been opened against the men who had been shot and injured.

The human bones referred to in the memorandum handed over during the protest refers to the fact that the remains of four bodies had been found 'in shallow graves on farms', and a fifth one was found shortly after the protest action. According to the member of the local farming community who does not wish to be named, the corpse had been beheaded, and the hands had been cut off, with one arm found nearby. There is a great deal of violence in the neighbouring tribal reserve area and, in fact, there was no evidence that the deceased had been killed in the areas in which their bodies had been found. Nevertheless, a Tribal Authority councillor from amaNgcolosi claimed that the find 'reinforced suspicions' that farmers were 'on the warpath' against them.' This person confirmed that cattle, goats and donkeys were constantly straying on to farms on the border with the amaNgcolosi reserve, and that the farmers had adopted a policy of impounding the animals. 'Unfortunately, two white farmers from another area, who were leasing the farm on which the shooting of the poacher took place, previously had impounded cattle, sold them and had kept the proceeds for themselves'. The person asserted that the guards involved in the shooting of the alleged poacher had been hired privately by two farmers, and not by the Conservancy 'which represents all farmers and through which the local security company is hired'.

The Committee also received written comments from Mr Marius Koen, who runs a private security firm which had previously provided security for the farmers, in which he levelled certain allegations against the security company personnel. He claims, *inter alia*, that former SANDF operatives who had served in Angola and Namibia and 'Portuguese speaking men', who were not registered with SIRA, were being employed by the security firm concerned. According to Koen the incident 'resulted in fuelling the conflict between the Kranskop farmers and their neighbours to the extent that threats are now being made against the farmers'. Similarly, in an article in the *Farmers' Weekly*, Darren Taylor comments: 'To say the local people, specifically those not employed on the farms, detest Buffalo Security is an understatement.'

While the incident involving the security guard may have sparked off the August 2002 process, it seems from the information available to the Committee that it merely brought to a head long-simmering tensions in the area. The anonymous person in the farming community referred to above, for example, notes: 'Most of the farmers carry weapons at all times. We have had numerous attacks and three farmers have been killed in our area. Trespassing is a serious problem on border farms and the farmers involved require that anybody wanting to visit the farm or to drive through it, must ask permission from the farmer. Farmers are not unreasonable, but do try to limit vehicles from carting building materials onto border farms, as squatting is a very real problem. Our sugarcane is set

alight frequently after trespassers have been apprehended or reprimanded’.

In his submission, which is based on his own experience of providing security for the farmers, Koen lists thirteen farms near to the border with the reserve area which have experienced problems, including incidents of poaching, arson, and stray animals on property, and illegal land occupation. Fencing was stolen, and boundaries were difficult to distinguish. Cattle and goats caused considerable damage to crops, the impoundment of livestock was a contentious issue, especially as poor people found the costs of reclaiming their cattle beyond their meagre means. Theft of timber and sugarcane was also rife. He notes that the 1945 legislation governing the impounding of stock is outdated and badly in need of review. He also stresses that farmers should ensure that the conditions of relevant labour legislation are adhered to, and recommends that labour be unionised.

Koen explains that trespass charges against people from the nearby tribal land may arise because cutting across commercial farms considerably shortens distances for people travelling on foot. He also points out that the theft of timber and sugar cane may stem from the poverty in which these people live. Given levels of conflict in areas adjacent to the farmland, the violence may also spill over on to farms with people fleeing to stay with relatives and friends there. Koen also alludes to the land factor in problems experienced by some of the Kranskop farmers. For example, the local *inkosi* started to make claims that the land on which the Ntombeni store was situated - on the boundary of the Reserve, and catering for its residents - belonged to him. After incidents of theft, housebreaking, threats, and an attempted murder on the owner, Mr Witthoft, the family, fearing for their safety, abandoned the property, which was reportedly ‘stripped down to nothing within two weeks of their departure’. This created the impression that ‘with enough pressure people can be forced off their properties’.

Media reports citing interviews with farmers and residents of neighbouring Reserve areas also suggest that disputes over land lie at the heart of what is happening in Kranskop. Journalist Dumisani Zondi cites ‘Tribal residents’ as claiming that farmers had encroached on their land when they took over farms in the area in 1991 and thereafter extended their boundaries still further. This allegation was denied by the Kranskop Farmers’ Association chairman, Mr Rolf Konigkramer, but, according to Zondi a spokesperson for the Land Commission confirmed that there was a land claim by the amaNgcolosi people and that this would affect several farms in the area. In the *Farmers’ Weekly* article Darren Taylor describes the process of encroachment taking place in Kranskop and elsewhere: Gradually, over a period of years, illegal occupants move further and further on to farming land through grazing their livestock on it and cutting fences until farmers abandon the land. At Kranskop ‘14 commercial farms of more than 10 000ha have been abandoned to masses of squatters now trying to make a living there.’

### **Developments since August 2002**

The situation following on the handing over of the memorandum was extremely tense, with a number of farmers in the area receiving threats, including Mr André Swanepoel,

whose farm was apparently mistakenly identified as that on which the killing of Njabulo Bhengu had taken place. (The incident in fact took place on a neighbouring farm.) Even doctors working at Ntunjambili hospital, living in the Kranskop area and serving the Reserve area, were reportedly considering moving away because of the call to chase whites from the area. At a meeting held during early September, aimed at a peaceful resolution of the dispute between the two parties, the provincial Member of Executive Committee for Safety and Security, *Inkosi* Ngubane, expressed his disapproval of the memorandum, and stressed that land invasions were illegal and that a Zimbabwe-type situation would not be tolerated. However, according to Taylor both Ngubane and Mr Khathi (the councillor identified by the farmers as being instrumental in leading the protest against them) agreed that farmers should not be allowed to own more than one farm; they should be ceded to the government for 'redistribution to the landless'.

*Inkosi* Ngubane and Agricultural and Environmental Affairs MEC Narend Singh subsequently appointed a task team to look into sources of conflict in the district, which intervention reportedly resulted in the withdrawal of public threats against farmers and white tourists and the convening of a series of meetings between local farmers and representatives of the tribal authority.' Several of the latter representatives continued to insist that Druten Ranch be returned to the local black community, claiming it was their land. However, the report continues, despite a 1997 investigation by the Land Claims Commission having found there was no valid land claim, homes were still being built on properties illegally. Mr Edsel Hohls, who had personally lost 13km of fencing, and been shot at twice while burning firebreaks, claimed that the police were not doing enough about the situation.

The case against the security guard, Ndimande, was finalised in the Pietermaritzburg High Court on 2002-12-04. He was found guilty of the murder of Bhengu and was sentenced to twelve years imprisonment, plus five years' imprisonment for each of the attempted murder of Bhengu's three companions. The judge found the accused's claim that he was shot at first as 'false beyond a reasonable doubt'.

According to an update by Edsel Hohls at the end of February 2003 the situation was still very tense, and 'deteriorating', in that

poaching was escalating,

dogs had been shot,

farmworkers were being intimidated,

theft of timber and crops continued and was not being prosecuted because it was seen as 'petty theft', and

the police were reluctant to open cases and had to be 'forced to do so'.

As at the middle of March, a senior prosecutor in the office of the DPP, Pietermaritzburg, was due to visit the area in connection with the farmers' concerns about the lack of prosecutions. Although meetings between representatives of the farmers and the neighbouring community had been scheduled to continue, under the auspices of provincial government, delays had been experienced, and relevant documentation had

reportedly been 'lost'.

Mr Walter Redinger, brother of the deceased Friedl Redinger, has informed the Committee that the deceased's farm is 'unfarmable', with illegal occupants still living on it, re-established plantations of trees hacked down, and the area burnt. He and the other trustee of the farm have taken a decision to offer the farm for sale to the Department of Land Affairs for re-distribution purposes, and are going out of their way to ensure that amicable relationships are maintained with their black neighbours. An area has already been allocated on which to build a school.

In a new development, two claimants from nearby black areas had lodged a restitution claim for 30 000 hectares of Kranskop farmland. These claims appeared in the Government Gazette March 2003-03-07. Although the cut off date for lodging claims had long since passed the office of the Land Claims Commissioner maintained that the claims had in fact been lodged in 1998.

#### **OTHER LAND INVASIONS IN KWAZULU-NATAL**

A further instance of attempted land invasion came to light when farmers in the Vryheid area, together with a local chief, *Inkosi* Johannes Mdlalose, obtained a temporary High court interdict on 2003-03-28, restraining the elder brother of the same chief, Jabulani Mdlalose, from encouraging the illegal occupation of over 200 farms in the district. Johannes Mdlalose further alleged that his brother Jabulani was representing himself as the rightful chief, and was allocating land on farms which were privately owned. Jabulani Mdlalose, however, claimed that a number of farms in the area had been given back to the tribal authority during the latter 1980s by the previous government. The court gave Jabulani Mdlalose until 2003-04-24 to show cause why the order should not be made final. However, the respondent filed opposing affidavits and the matter is set down for argument in the High court on 20 June 2003.

While the claim by Mr Edsel Hohls of Kranskop that farmers had had to abandon hundreds of thousands of acres of prime agricultural land could reportedly not be substantiated by kwaNalu, it seems that the type of encroachment which has been happening in Kranskop is occurring elsewhere. In a telephonic interview in March 2003, Mr John du Preez, Chairperson of the Rietvlei Farmers' Association in the Greytown/Muden area, described how a similar process had been occurring in the Middeldrift area, lying roughly within a triangle bounded by Muden and Weenen in the east and Mooi River in the west. This area, it should be noted, has long experienced problems between farmers and neighbouring black communities, linked to, among other things, forced removals of black people for purposes of homeland consolidation in the 1970s and 1980s.

According to a media report the situation has been exacerbated by the way in which land claims in the area have been handled by the Land Claims Commission. According to

game farmer Peter Channing, who had been the target of a number of violent attacks, the Commission had offered him around R5 million to buy his 6 000 ha game farm, situated within the protected Thukela Biosphere reserve. He claimed that he needed R17 million for the property - or the 'same thing' elsewhere in the province - and had not accepted the offer. He had subsequently discovered that in the 2001/2002 annual report of the Commission on Restitution of Land Rights it was stated that the claim had been settled, and reflected millions of rand as paid out to him. The neighbouring community thus believed he had been paid and should move out. The land claims commissioner is quoted in the report as saying that there was a printing error in the report and accused Channing of making a 'mountain out of an anthil'. Noting that the error could cause 'unnecessary conflict', the spokesperson for land issues in the neighbouring area, Jotham Myaka, goes on to say: 'My concern is that people like us, land facilitators, were not involved in this claim from the start'. He warned: 'If this claim is not facilitated properly the game on Channing's farm will be gone in a morning.'

## **MODDERKLIP**

Agri SA provided the Committee with information regarding the illegal occupation of the farm of Mr A.C. ('Braam') Duvenhage (aged 71). The farm 'Modder East' is situated between Daveyton and Benoni and the legal owner is in fact a company, Modderklip Boerdery (Pty) Ltd, of which Duvenhage is a director. Duvenhage has been farming there since 1965.

Two members of the Committee visited the farm on 2002-08-01, where they met Mr Duvenhage. Mr Duvenhage guided them through a portion of the occupied land. Squatters had built shacks on most of the land. The land is adjacent to an area set aside for council housing, from where squatters had encroached onto the farm. The streets had names and the Committee members saw a nursery school or crèche with the requisite recreational facilities for the children. Water was drawn from pipes laid into the ground. A portion of the land lay fallow, but it was littered with plastic bags. Mr Duvenhage informed the Committee members that he was unable to farm on this piece of land because his farm manager had been attacked while tilling the soil. The attackers had been armed. An expensive tractor had also been stolen.

Surprisingly, when the squatters saw Mr Duvenhage they greeted him by name and chatted to him. The Committee members spoke to some of the squatters, and they said that they had come 'from Daveyton'. When asked why they had come they replied that 'there were no houses in Daveyton'.

Mr Duvenhage gave the Committee members the history of the case and the various steps he had taken to have the squatters removed. It all had come to nothing, however, and he had approached the Transvaal High Court for relief. At the time of the visit of the Committee the case was still pending, but judgement was delivered on 2002-11-20 under the title of Modderklip Boerdery (Pty) Ltd versus The President of the Republic of South Africa and Others. Apart from the President, the other respondents in the case were the

Minister of Safety and Security, the Minister of Agriculture and Land Affairs, the Minister of Housing, the National Commissioner of Police, the Sheriff of the Court for Benoni, Ekurhuleni Metropolitan Municipality (which in effect is the Greater Benoni Municipality) and the 'Modder East Illegal Occupants' (as they were referred to in the papers). At a later stage Agri SA took part in the proceedings as so-called *amicus curiae*, representing the farming community in general.

The extensive judgement outlines the history of the case in detail, before dealing with the legal aspects relating to the duty of the State to prevent the illegal occupation of land, or 'land-grab' as it is called in the judgement. This judgement is of such importance in respect of the illegal occupation of land that it is summarised below, but in fairly great detail. It is acknowledged that the summary contains lengthy direct extracts from the judgement, but to facilitate reading, no quotation marks are used. Also, the various Ministerial offices are jointly referred to as the Government, unless it appears otherwise from the context.

### **History of the case**

In the early 1990s a steady influx of people took place into the East Rand area, particularly Daveyton, and as a result a number of informal settlements were established. In May 2000 fifty shacks appeared on the farm virtually overnight, with approximately 400 squatters in residence. At this time the farm was fully operational and was cultivating a specific type of grass fodder. Duvenhage was in fact running the farming operations.

On 2000-05-17 Duvenhage laid a charge of trespassing at the local police station, but the matter was transferred to Daveyton Police Station. A few days later Duvenhage attended a meeting with the Police. Numerous offenders were arrested, charged, found guilty, warned and released. Shortly thereafter a second meeting was convened with the head of the nearby Modderbee prison, who stated that further action against the squatters would mean that the already overflowing prison would be further burdened with the arrest and incarceration of the 400 squatters. The head of the prison recommended that an eviction order be sought.

Shortly hereafter, squatting grew at an alarming rate, and by October 2000 the number of squatters had grown to about 18 000, with approximately 4 000 shacks. This took place under the eyes of the Police who did nothing to prevent it, despite the fact that Duvenhage had reported this to the Police at a high level. Duvenhage was told that according to the 'law' (probably the Prevention of Illegal Eviction and Wrongful Occupation of Land Act, No 19 of 1998) the squatters could only be removed by means of a court order.

Modderklip Boerdery then lodged an application in the Witwatersrand Local Division of the High Court against the squatters for their eviction. The squatters obtained legal representation and opposed the application. It was nevertheless granted on 2001-04-12, when the squatters were directed to clear the property within two months and remove

their shacks. The Sheriff of the Court was authorised to evict and remove the squatters in the event that the latter failed to act as ordered.

The Sheriff served the eviction order on the squatters on 2001-05-10. After the two month period none of the squatters on the farm Modder East had removed their shacks. A warrant for eviction was issued by the Registrar of the High Court and given to the Sheriff. The Sheriff, however, reacted by saying that the squatters would only be removed with the assistance of private contractors, the cost of which Modderklip Boerdery would be responsible for. The Sheriff requested Modderklip Boerdery to deposit R1.8 million into her trust account before she would act. (A later estimate of the private contractor's costs came to R2.2 million, as a result of the increase in the number of squatters on the property.)

On 2001-07-06 Duvenage laid a further charge at the Daveyton Police Station against the squatters for illegal occupation of the farm as well as being in contempt of the court order. Letters were also sent to the President, the Minister of safety and Security, the Minister of Agriculture and Land Affairs and to the National Commissioner of Police, enclosing copies of Duvenhage's affidavit to the Police and the court order.

The President's office indicated that the matter was receiving attention, but no further correspondence was received. On 16 July 2001 a further letter was addressed to the President containing a plea to the government to become actively involved in the matter to ensure that the eviction order could be fulfilled. The same letter was sent to the Ministers and the Commissioner. Only the Minister of Safety and Security responded, who said that the Police Service could not intervene in a civil matter, and he added: 'I am concerned about the long term effect this type of situation can have on the Government's Land Reform Programme. I would appreciate it if you could sensitise the Minister of Land Affairs about the situation, and possibly explore alternative solutions from that perspective.'

A further urgent request to the Daveyton Police Station that the squatters be formally charged was ignored, but on 18 June 2001-06-18 Modderklip's attorneys received a telephone call from a senior police official who said that the charges against the squatters were being investigated. The official admitted that the police had a duty to investigate each charge laid and to charge the offenders and bring them before court, but said this would be impossible as it would lead to violent opposition, not only among the squatters but residents in Daveyton also. The official suggested that a meeting be held with all the stakeholders. Nothing was done despite the attorneys' willingness to participate in the discussion.

The office of Minister of Agriculture and Land finally acknowledged receipt of applicant's letter on 2001-07-16, saying that the matter was receiving attention. This was followed by a letter saying that, in terms of a Presidential minute, the Department of Housing administered the Prevention of Illegal Eviction and Unlawful Occupation of Land Act. Modderklip's attorneys then sent a letter with copies of the correspondence to the office of the Minister of Housing, but no response was received.

The position therefore was that the President did not respond to Duvenhage's plea, the Minister for Safety and Security refused to do anything as he viewed the problem as a civil matter, the Minister of Agriculture and Land affairs viewed it as a matter for the Minister of Housing, the Minister of Housing did not respond, the National Commissioner of Police did not respond and the sheriff claimed R1.8 million before she would do anything.

On 2001-08-06, the Municipality advised Modderklip in a notice that the number of squatters had increased and inquired whether any progress had been made in evicting the squatters in terms of the court order. In fact, however, the squatting fell within the jurisdiction of the Municipality, which failed to exercise its authority to address the problem. Instead the Municipality wanted to buy an unoccupied part of the farm Modder East immediately adjacent to the squatting area and threatened Modderklip with expropriation should the negotiations fail. According to Duvenhage the Municipality was only interested in acquiring the best part of the farm and wished to leave him with the squatting problem. By this time, the number of squatters had grown considerably and was estimated at approximately 6 000 shacks and 36 000 squatters.

It was under these circumstances that Modderklip approached the Transvaal High Court on 2001-09-03 for a declaratory order. The nature of the order sought was that the Government had a legal duty to take steps to remove the illegal squatters from the property, including the duty to assist the sheriff to fulfil her duties in this regard, and to see to it that the squatters vacate the property within a certain period of time. During the trial the application was extended to force the Government to put a comprehensive plan of action before the court within a specific period of time. As basis for the application Modderklip relied on its rights in terms of the Constitution.

The case was heard on 2002-10-12 and judgement was delivered on 2002-11-20. In its judgement the court found that in essence the case was about the effective execution of the original court order of 2001-04-12, after compliance with all procedural and material provisions of the Prevention of Illegal Eviction and Wrongful Occupation of Land 19 of 1998 (hereinafter called the '1998 Act'). Of cardinal interest was the role and duties of appropriate state organs to ensure that the court order was effectively complied with and, where it was not complied with, that effective execution would take place.

### **Findings of the court in respect of the legal position**

Previously the unlawful occupation and wrongful occupation of land was governed by the Prevention of Illegal Squatting Act, No 52 of 1951 (the Squatting Act). The general ambit of the Squatting Act was that unlawful occupation or squatting was a crime, which could be terminated with rather heavy-handed eviction procedures. Eviction orders were usually coupled with demolition orders.

From the long title of the 1998 Act read with the preamble it is clear that the object of the

1998 Act was to prohibit unlawful eviction, to set out procedures for the eviction of unlawful occupiers, to repeal the former as well as other defunct laws and to give effect to certain key provisions of the Bill of Rights which are embodied in the Interim and later the Final Constitution. It is clear that the law tried to effect a balance between the protection of property rights as set out in section 25(1) of the Constitution on the one hand, and the provisions set out in section 26(3), which protect the individual from arbitrary evictions, on the other hand. Even though a lengthy eviction procedure was created, which hampers the common law rights of ownership of the property owner, it is clear that the 1998 Act honours the protection given in section 25(1) of the Constitution. Once eviction is allowed, the Act aims at doing so effectively, precisely because the situation would otherwise lead to an infringement of the fundamental protection which ownership of property enjoys in terms of section 25(1).

The Court interpreted the 1998 Act as follows: The Act creates a time period - in legal terms called a *spatium* - during which procedures for eviction must be complied with in the course of the balancing process. During this period, however, the landowner can be seriously prejudiced. In order to achieve equilibrium between the apparently conflicting rights, wide powers and discretions are bestowed on the Court with respect to the eviction of unlawful occupiers. In terms of section 4 (10) of the Act the Court is empowered to grant an order for the demolition and removal of the buildings or structures erected by the occupiers. In terms of section 4(11) the Court is empowered to appoint a person to assist the Sheriff in executing an order for eviction, demolition or removal on request subject to the conditions stipulated by the Court. In terms of section 4(12) the Court is empowered to grant an order for the eviction of the unlawful occupiers or for the demolition or removal of buildings or structures subject to conditions that the court deems just, and which the Court can, on good cause shown, amend any condition of an eviction order.

The last named capacity which is granted to the Court, namely to amend an eviction order on good cause shown, is radical and differs drastically from the provisions of the earlier Squatters Act. This capacity to amend the order is necessary to achieve an effective balance between the fundamental rights of the landowner set out in section 25(1) of the Constitution and the prohibition of arbitrary evictions set out in section 26(3). The need for this balancing instrument is apparent from the following:

1. Contrary to the prior position, the 1998 Act demands a procedure that can be lengthy by nature. Where eviction previously could occur summarily due to the criminal nature of the unlawful occupation, now unlawful occupation is in terms of the 1998 Act no longer *per se* a crime.
2. In the period which has to lapse between the first moment of wrongful infringement and the eventual eviction order, the landowner is deprived of his right to enjoyment and use of the particular land to the extent that the particular land is physically occupied. The earlier position of summary eviction prevented such unlawful occupation from becoming in any way permanent - it was nipped in the bud.
3. The danger of the fair and reasonable balancing process which the 1998 Act is aiming at, is that during the course of the *spatium* the unlawful occupiers could settle and escalate to a land grab situation, particularly where the occupation is orchestrated

politically or in any other way, and that the police and sheriff, when the *spatium* has passed and the eviction order is granted in the end, throw up their hands. The result is precisely that which the 1998 Act did not intend, namely a *de facto* alienation and confiscation of property contrary to the fundamental protection of section 25(1) of the Constitution. This is precisely what happened in the Modderklip case - during this period the numbers of squatters grew from 400 to 15 000.

4. The capacity to amend an eviction order on good cause shown, therefore, is the instrument by which effect is given to the court order and the equitable balancing of interests is achieved. Only when the court's eviction order is effectively enforced, will the constitutional balance of interests be possible - otherwise the *spatium* will be an instrument for illegal appropriation of land in the style of Zimbabwe.

Two fundamental questions arise in this regard:

Is the Government constitutionally obliged under the circumstances of this case to ensure that the supremacy of the law is maintained and to support the court with practical measures and to guarantee the effectiveness of the court's order?

Can the court force the Government to fulfil its constitutional duties or to even directly order that the court order be executed?

In terms of the Preamble to the Constitution, Chapter 1, section 1(c) and section 2, a fundamental value upon which the Republic of South Africa as a democratic state is founded, is the supremacy of the Constitution and the rule of law, which brings into being that all legal rules and actions must be compatible therewith and that the obligations which are bestowed thereby must be fulfilled.

The Bill of Rights, which protects certain fundamental rights of all people in the country, is the cornerstone of democracy in South Africa. The Constitution compels the State to honour the rights embodied in the Bill of Rights, to protect it, to further and realise it. The Bill of Rights applies to the whole body of law and binds the legislative, executive and judicial authority and all organs of state. That is clear from the Constitution, Chapter 2, sections 7(1), 7(2) and 8(1).

In the Preamble to the Constitution it is further stated that one of the fundamental values on which the people of South Africa founded a democracy is that every citizen is protected equally by the law. This right is entrenched in section 9(1) of the Constitution, which provides: 'Everyone is equal before the law and is entitled to the protection and privilege of the law.'

Another crucial provision of the Bill of Rights, which must be honoured, protected, promoted and realised is the right to property. The appropriate provision reads:

25. (1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

(2) Property may be expropriated only in terms of law of general application ...

Section 165(4) of the Constitution places an imperative obligation on the organs of state to ensure that the supremacy of the law is safeguarded, as will appear from the provision ‘Organs of state, through legislative and other measures, must assist and protect the courts to ensure... the effectiveness of the courts.’ In this regard the Court referred to an article written by a previous Chief Justice, where he said: ‘There can be no doubt that the depth of judicial power in the modern state is formidable, and in this country it is arguable even awesome. Independence in the exercise of that power is crucial to the legitimacy of the power. .... There is an inherent paradox about all this power. Unlike Parliament or the executive, the court does not have the power of the purse or the army or the police to execute its will. .... They would be impotent to protect the Constitution if the agencies of the state which control the mighty physical and financial resources of the state refuse to command those resources to enforce the orders of the courts.’

It is therefore the duty of the State to create proper structures by means of legislation and officials to support and to protect the courts in fulfilling their functions. But, where in a particular case it is clear that the existing institutions are not effective or cannot be effective, or where existing measures which would normally be used in that case, are ineffective, then it is imperative, in terms of section 165(4) of the Constitution, the organs of State apply other measures that can be effectively utilised. This is exactly why section 165(4) refers to ‘other measures’.

These ‘other measures’ are not necessarily measures that are specifically designed to protect the courts. If policies and programmes exist which can guarantee the enforcement of a court’s order, then there is a duty to apply them to ensure the effectiveness of the court. The effectiveness of the courts, after all, depends upon the respect of the organs of state as well as the people.

The functions and capacities bestowed on state departments and administrations (including the Municipality), both statutory and otherwise, include measures which allow the State to fulfil the obligations placed on them in terms of the Constitution to ensure the effectiveness of the court’s order and to give expression to Modderklip’s rights in the Bill of Rights.

The judgement specifically rejects the argument by the Government’s legal representative that the State has no responsibility in respect of the alternative accommodation or the resettlement of the unlawful occupiers, as long as the State has a statutory framework, policy and programmes to address the question of land reform. Section 165(4) requires not only policy measures but also the reasonable and effective execution thereof. What has been said by the Constitutional Court with respect to the socio-economic rights is *mutates mutandis* also applicable in respect of land reform: Mere legislation is not enough - the State is obliged to act to achieve the intended result, and the legislative measures will invariably have to be supported by appropriate, well-directed policies and programmes implemented by the Executive. Section 85 of the Constitution places the obligations on the President and the other members of cabinet to jointly co-ordinate the functions of state departments and administrations.

### **The court's findings in respect of the present matter.**

Section 7(2) of the Constitution reads as follows: 'The state must respect, protect, promote and fulfil the rights in the Bill of Rights.' It implies that the State must ensure that an effective remedy exists for the protection of these rights. It cannot be disputed that the squatters infringed Modderklip's rights as set out in section 25 of the Constitution.

The problem that arose in this case is no longer a question of just a civil matter between Modderklip and the squatters, as the Minister for Safety and Security said. That is not in keeping with the reality of the situation. It can not be seen as merely a case where the appropriate organs of state can turn their backs on the applicant to wrestle with this problem alone. The cardinal question is the effective execution of an order of the court and the enforcement of the fundamental value of the supremacy of the law, while ensuring that Modderklip is not denied the ownership of his property in conflict with his rights entrenched in the Bill of Rights.

The matter is a classic case of an 'illegal land-grab', which brings the whole question of the supremacy of the law to the fore. The 1998 Act is being emasculated without the support of the State in the enforcement of the eviction order. It is in the public interest that this form of land grab is urgently and immediately stopped and that the appropriate organs of state are constitutionally obligated to play their parts. In this process, Modderklip is *de facto* being dispossessed in a manner which threatened the cornerstones of the Constitution, leading to chaos. The state's authority is contemptuously being disregarded by the squatters, while the particular organs of state simply ignore their constitutional obligations - the result is unavoidably political chaos and the denial of the Constitution.

The essential question is whether it can be tolerated that the Government admittedly left the applicant to his lot despite the public interest involved in this matter. A private landowner who is a law-abiding citizen and who by his own sweat and blood has acquired his land, is being left with the responsibility ensuring that the squatters are removed at his own expense. In this matter prepayment of the sum of R2 million is requested by the Sheriff before the eviction process of approximately 36 000 people will begin. A further practical problem arises, namely where the squatters and their property will be removed to. If the appropriate organs of state are not involved in this process, the same people may return a day or so later and the same process will recur, to his detriment. What about the private landowner who does not have the capacity to pay sums of this nature? The value of the land may, for example, be considerably less than the costs demanded from the owner, which is the case in the present matter. The passive observance by the authorities is therefore catastrophic for a landowner, against the public interest and contrary to the underlying values and provisions of the Constitution.

As far as the Police are concerned, the statutory capabilities and measures required by them to ensure the effective execution of the order of court do exist:

1. Section 205(3) of the Constitution provides that one of the goals of the police service is to protect and secure the citizens of the Republic as well as their property and to

uphold the law and apply it.

2. Section 205(2) of the Constitution provides further that the national legislation must be such that it empowers the police service to effectively meet its responsibilities.
3. The constitutional goal mentioned above is also contained in the preamble of the South African Police Services Act, No 68 of 1995. The legislature created the necessary provision to allow the SAPS as an organ of state to guarantee the effectiveness of the courts, as well as orders of the courts granted to protect property and enforce the fundamental rights guaranteed in the Bill of Rights - see section 14, read with section 13(1) and (3)(a) and 26.

As far as the Minister of Agriculture and Land Affairs, the Minister of Housing and also the Municipality are concerned, the necessary legislative and other measures also exist to allow these organs of state to guarantee the effectiveness of the courts and in particular to take the necessary steps to provide effective execution of the court order:

1. In terms of existing legislation the premier of a province can designate state land or other land that can be obtained for the development of informal settlements. The local authority can also make land available for designation. The province can therefore designate land for expropriation if necessary. If there is an urgent need to acquire land, the premier can by notice in the official gazette make land available or designate land for informal settlement. Laws with respect to the establishment of townships and town planning are not applicable. This is therefore a very effective weapon by means of which immediate settlement can take place.
2. The Minister of Agriculture and Land Affairs has wide powers with respect to the availability of land so that problems of this nature can be properly addressed and effective execution of the court order can take place. The mechanisms with respect to the acquisition and availability of land can be exercised in terms of the Expropriation Act, No 63 of 1975.
3. The Minister of Housing also has the necessary capacities to assist in ensuring that the court order is effectively executed. From the Housing Act, No 107 of 1997, it appears that a municipality in whose jurisdiction the land is situated, is obligated to exercise the functions that are necessary to facilitate the effective execution of the court order. The necessary expropriation capacities are available with which these organs of state can in a practical manner come forward as stakeholders to solve this problem.
4. The whole question of the co-ordination of the housing programmes which the executive authority and its national, provincial and local branches have set out, are available for application by these respondents in compliance with the constitutional obligations referred to above.
5. The Government is not seeing the realities of the matter and chooses to ignore it as a private issue, where the question of the resettlement of the unlawful occupiers is not linked to the effective execution of the eviction order of the court.

The essence of the problem is precisely what should happen to the unlawful occupiers in

the execution of the court's eviction order. This problem, which is facing the authorities directly, is closely linked to the effective execution of the court order. The argument by the Government that the only obligations it has is to provide for the establishment of the necessary legal structures by which Modderklip can enforce his rights and protect them properly, is therefore rejected. The effective execution of the court's eviction order cannot be divorced from the question of whether the State's policy and programmes were reasonable and complied with the State's constitutional obligations.

Although the necessary statutory capacities and measures are in fact available to enable the executive authority and its branches - national, provincial and local - to assist the court in the effective execution of the court order, it appeared that the Government has done nothing to effect the resettlement of the squatters: no viability studies for their resettlement has been conducted, their removal has not been prioritised, it has not been decided where they should be resettled, and no programme has been formulated for the resettlement.

The court cannot tolerate a situation where the court's orders are not effectively executed, because the appropriate organs of state fail to perform the necessary functions imposed on them by the law, where the necessary measures exist to allow the execution of the court order, as the Constitution orders them to do. In the words of a Zimbabwean judgement: 'The reality is that the government is unwilling to carry out a sustainable program of land reform in terms of its own law. The first thing to be done is to return to lawfulness. A huge problem has been created. Thousands of people have been permitted ... to invade properties unlawfully. They have no right to be there. The situation will not be easy to resolve, but it must be resolved. Either their presence must be legalised, or they must be removed.'

In terms of sections 38 and 172(1)(a) and (b) of the Constitution the court has to provide appropriate relief where a fundamental right was infringed. The court has a wide discretion to formulate appropriate relief. In terms of section 173 the court also has an inherent authority, taking into consideration the interests of justice, to protect its own process and to develop the common law. Also, in terms of section 172 the court can make any order that is fair and just. The court can therefore provide an appropriate remedy within its discretion for the particular situation where a fundamental right is infringed. This remedy could in certain circumstances imply that organs of state can be ordered to apply their statutory powers to protect the rights in the Bill of Rights (section 7(2)) or protect the court's effectiveness (section 165(4)).

The court also has to take into consideration that the existing institution created by the State to execute an order of court, namely the Sheriff, is ineffective in case of the theft of land which attacks the pillars of the Constitution and which amounts to rule by the masses, intimidation and destruction of democracy. There exist competent authorities that, properly co-ordinated, can ensure that the court order is enforced effectively. The refusal by the State to properly use these capabilities is a refusal to maintain a democratic state - something that totally undermines the Constitution and leads to the collapse of the values of an open and democratic society and the supremacy of the law.

The Court therefore finds that under these circumstances it can provide the appropriate legal remedies to uphold the fundamental right in section 25 of the Constitution and the pillars thereof. Any order should be aimed at the solution of the problem in a co-ordinated manner while using the existing statutory capacities, policy and programmes.

### **The declaratory order of the court**

As part of its declaratory order, the Court made the following findings:

1. Section 25 of the Constitution provided that no one can be deprived of his property, save in terms of a generally applicable law, and then only in public interest and at a fair compensation. Modderklip's rights in this regard are infringed by the squatters' refusal to evacuate the particular land in terms of the eviction order of 12 April 2001.
2. The Government was obliged in terms of section 26(1) and (2) read with 25(5) of the Constitution to take reasonable measures within its available resources to give effect to the squatters' right to suitable housing and land.
3. The Government was obliged in terms of section 165(4) of the Constitution to put in place the necessary measures to support and protect the court to ensure the effective execution of the eviction order.
4. The Government did not fulfil its obligations set out above, nor its obligation in terms of section 7(2) of the Constitution to protect Modderklip's fundamental rights with respect to the unlawful occupation of its land.
5. Specifically, the Minister and National Commissioner of Police did not fulfil their obligations in terms of section 205(3) of the Constitution, read with section 14 of the SA Police Service Act, No 68 of 1995, in that they had failed to properly investigate the charges against the squatters with a view to criminal prosecution and had failed to protect Modderklip's property.
6. The Government's existing policy, actions and programmes in respect of the matter fell short of their constitutional obligations in that:
  - (a) It did not make provision for the prioritisation of a project or projects for the resettlement of the squatters under circumstances where Modderklip's rights in terms of section 25 of the Constitution are infringed upon and where an order of court exists for the immediate eviction of the squatters.
  - (b) It did not provide for the execution of the government's obligations in terms of section 165(4) of the Constitution.
  - (c) It created and tolerated the *de facto* expropriation of Modderklip's land.
  - (d) Contrary to section 9 of the Constitution, Modderklip was being treated unequally in that he as an individual had to bear the burden of the squatters' occupation of his land on behalf of society.

The court finally ordered the Government to deliver a comprehensive plan to the Court on or before 28 February 2003, in which provision is made for:

- (a) the termination of the infringement of Modderklip's rights by the squatters within a reasonable timeframe, whether by expropriation of the applicant's land or otherwise;
- (b) compliance by the Government with its obligations in terms of section 25(5) read with sections 26(1) and (2) of the Constitution;
- (c) prioritisation of a scheme or schemes for the provision of housing, alternatively access to land, for those squatters who qualify therefore;
- (d) removal of the squatters who do not qualify as mentioned above; and
- (e) monitoring the implementation of the abovementioned plan.

The court order further made provision for the various parties to the case to comment on the above plan, after which the Court could once more be approached to make a final decision.

In conclusion the Court ordered the Government to pay all the legal costs of Modderklip Boerdery as well as some of those of the *amicus curiae*.

### **Comments on the Modderklip matter.**

The State has now taken the Modderklip judgement on appeal. No date for the hearing of the appeal in the Appeal Court in Bloemfontein has been determined yet.

Finally, it should be noted that during the court proceedings reference was also made to the so-called Bredell matter, where squatting took place on the other side of Daveyton a few kilometres away from Modder East. The squatters occupied land that the Government co-owned and the Government brought an application to the Court for the eviction of the squatters during July 2001. The eviction order was granted. When the two day period expired the Sheriff of the Court together with the private company and a large police presence went in and removed the squatters and their property. When the court granted the eviction order, the Court stated that it was only 'right and fair' to evict the squatters, considering among other things, the blatant invasion of the property, the short stay on the property and the probability that the squatters could return to where they had come from.

### **GENERAL COMMENTS**

The illegal occupation of farmland obviously poses a serious threat to farming as a commercial enterprise. It inevitably leads to theft of livestock, crops, fencing, equipment, etc. Nevertheless, it cannot be described as a farm attack *per se*. However, the case studies above show that the illegal occupation of land frequently leads to farm attacks in

the narrow sense of the word. If the farmer attempts to resist the infringement on his property, even by legal means, the result is very frequently intimidation of some kind which, by definition, is a farm attack. Furthermore, the end result is often robbery and murder, i.e. farm attacks in the narrow sense of the word. The illegal occupation of land is therefore one of the major causes of farm attacks.

It is obvious that the question of land has become an enormous problem. It may well become a bigger threat to the farming community than the problem of farm attacks in the narrow sense of the word.

## CHAPTER 7

### PERPETRATORS OF FARM ATTACKS

#### INTRODUCTION

##### **Purpose of the research**

The Committee's terms of reference stipulated that interviews should be conducted with persons convicted and sentenced in connection with farm attacks.

A comprehensive study in this regard, 'Perpetrators of farm attacks: an offender profile' had already been undertaken by D. Mistry and J. Dhlamini, attached to the Institute for Human Rights and Criminal Justice Studies at Tecknicon SA. They interviewed some 48 offenders who had committed farm attacks in 1997 and 1998 and who were serving prison sentences in prisons in Gauteng, KwaZulu Natal, North West, Limpopo, Free State and Mpumalanga.

Because the Mistry and Dhlamini research was relatively recent, the Committee decided that it would serve no purpose to interview farm attackers in general. Rather, perpetrators linked to the cases proffered by the agricultural unions, and to the cases identified by the Committee itself as warranting special attention, should be concentrated on, in order to supplement the existing data. The purpose of the research by the Committee was, *inter alia*, to examine the motives for the farm attacks.

##### **Research methodology**

The Committee experienced great logistical problems in carrying out these interviews. Firstly, the Committee had requested from the agricultural unions a list of cases in which the motives appeared not merely criminal in nature. It took many months for the list to be forthcoming. Secondly, working with these lists, and with names of other cases which the Committee thought warranted special attention, it proved extremely difficult to trace the perpetrators. It was first necessary to obtain as much detail from the police as possible about the specific cases, especially that relating to the names of those convicted, the court and the dates on which they were convicted. Thirdly, even then the process of establishing the facility where those convicted were imprisoned, was time-consuming. There apparently was no central database for convicted prisoners, and different prisons in the various provinces had to be approached. The fact that people convicted in one province might serve their sentence in a prison in another province complicated matters - as did the fact that transfers of offenders from one prison to another in the same province seems to occur on a regular basis.

In addition to the delays caused in locating perpetrators, when some were finally traced,

some of them were incarcerated in prisons that were a great distance from the main centres. Because of time and financial constraints, it was thus only possible to interview 8 perpetrators linked to 5 of the cases listed by the agricultural unions. Those interviewed were incarcerated in prisons in Gauteng, KwaZulu Natal, North West and Mpumalanga Provinces. A possible reason why the Committee experienced so many logistical problems was that, unlike the Mistry and Dhlamini study, the interviewees were not randomly selected from those available, but were linked to specific farm attacks.

The semi-structured interview schedule used in the study by Mistry and Dhlamini was adapted for the Committee's own study on the basis that it was a proven questionnaire. The interview schedule was administered on a face-to-face basis with the perpetrators. This interview schedule covered the following aspects:

- Family backgrounds
- Age, level of education and marital status
- Circumstances surrounding the attack
- Emotional state before, during and after the attack
- Target selection
- Knowledge about security on the farm
- Involvement in other crime and criminality
- Views about land ownership
- Opinions about sentences
- Suggestions on the prevention of farm attacks

Some interviews were conducted on a one-on-one basis, even though there was more than one offender involved in a particular attack, whilst others were conducted with both offenders at the same time. The reason for interviewing some offenders separately was to minimise exaggeration or dishonesty. Interviewing the perpetrators separately enabled the researchers to construct a complete picture of what had happened and to establish the motive for the attack. In other cases, such as where the perpetrators fully admitted their complicity, separate interviews were not always necessary.

The relevant police dockets were perused, where possible, and served as preparation for the interviews. This enabled the Committee members to judge to what extent the interviewees were being truthful. The interviews were conducted in a language with which the offenders were comfortable. Some perpetrators were given a choice of the interview either being taped or written down. On average the interviews took a minimum of two hours to complete.

### **Advantages of perpetrator studies**

An offender's account allows the researcher to obtain 'insight into the offender's

perceptions and experiences'. In fact, according to the literature, there has been a 'resurgence in offender accounts because of the value seen in the perspective that focuses on the offender's decision making (both the phenomenological and rational choice approaches argue that we need to get an offender's eye view to properly and meaningfully understand crime)'. This simply means that the offenders' accounts are important in understanding why they perpetrate violence.

The usefulness of the offender's account is often questioned. Offenders will give motives for using violence that place them in the best possible light. Furthermore, 'offenders are tempted to remember events in a way that excuses them from culpability, especially with regard to the moral codes to which they may be tied'. However, it is by understanding how offenders excuse their violence that insight into the constructions they use to allow violence in the first place is gained.

Some of the perpetrators interviewed by the Committee lied - they gave a different version of the event to what was contained in their own or other creditable statements in the police docket. In addition, the Committee found that when the perpetrators had an appeal pending they were less likely to tell the truth. Nevertheless, interviews with perpetrators are most useful, since even if they lie they throw light on the attitude of the perpetrator.

The perpetrator study is only one component of the study of a particular case. One also looks at the police docket, court case and other circumstances (including victim's perspective, if he or she is still alive), and the perspective of the perpetrator is another important component.

## **RESULTS OF THE INTERVIEWS**

The interviews by the Committee did not really reveal anything new, and merely confirmed many of the clear patterns that had emerged from the study by Mistry and Dhlamini.

### **Perpetrator profile**

The eight people interviewed were between the ages of 20 and 36. They were all black. The level of their education was between grade 2 and grade 10. Only one of them had been raised by both parents, whilst the others had been raised either by a single parent (usually a mother) or by their grandparent(s). Three of them were single and five of them were married according to customary law. All of them said they did not have friends in prison because they were trying to avoid trouble.

In the Mistry and Dhlamini study the 48 offenders were also black. At the time of the attack 23% were under the age of 18, while none were older than 33. Some 23% had not attained a grade 7 level of education, while 46% had attained a level of between grade 7

and 9, and 31% between grade 10 and 12. More than half had had an unstable family background, including being raised by persons other than their biological parents. Only 12% were married and 71% were unemployed.

### **Involvement in farm attacks**

The eight perpetrators were involved in five different attacks. Of the eight, two admit they were involved in the attack, and they provide all the details of the attack. Four deny involvement in the attacks; instead they claim that they were merely accompanying their co-accused and they were not aware of their intention to commit farm attacks. The other two claim they were wrongly implicated by either the police or their co-accused. Despite this, four perpetrators (two who claim they were merely accompanying other people and the two who claim they were wrongly implicated) gave the Committee all the information about the attacks.

The two perpetrators who admit involvement, committed the attacks in the North West and Mpumalanga Provinces. Two of the four who claim they were merely accompanying other people were sentenced for cases that took place in KwaZulu-Natal. The other two were convicted and sentenced for a farm attack that occurred in Mpumalanga. Of the two who claim they were wrongly implicated, one was sentenced for a farm attack in Mpumalanga and the other for an attack in KwaZulu-Natal.

### **Motive for farm attacks**

The two perpetrators who admit they were involved in the attacks state that their motive for the attacks was robbery. Their main intention was to steal money, cars, arms and ammunition and electrical appliances. One perpetrator stole a vehicle but did not find any money after ransacking the house; the other one stole arms, ammunition and a vehicle. The other perpetrators say they did not know what the motive for the attacks was because they claim either not to have been involved in the attacks or to have been wrongly implicated.

In the Mistry and Dhlamini study robbery was given as the primary motive for the attacks by 90% of the perpetrators. Those attacks were mostly well planned, the offenders spending three to seven days on the farms, studying the movements of the occupants. The main intention of 46% was to steal money, although few actually managed to get it. Some 40% wanted to steal other items such as motor vehicles, electrical appliances and food. It is interesting that several of the attackers did not steal anything because they were disturbed by a sudden noise of the arrival of an unknown person. Only 8% of the attackers were motivated by revenge.

### **Target selection**

The perpetrator in the North West case says he and his co-accused (who were not interviewed) chose the farm because they stayed close to the farm. They knew the farmer had money, because they usually went to the farm to buy cows and sheep. It took them only one day to select and attack the farm. They did their planning during lunch time at school and attacked the farm the next day after school.

The perpetrator in the Mpumalanga case also says that he and his co-accused chose the farm because it was in close proximity to where he resided. An uncle of one of the co-accused had worked on that farm, therefore they had information that the farmer had money. It took them two weeks to plan the attack. Their planning entailed going to the farm and feigning interest in the price of livestock.

The six other perpetrators were not asked the question by the interviewer, since they denied involvement in the farm attacks.

In the Mistry and Dhlamini study just under half of the offenders said that they had chosen the particular farm on the basis of information received from a previous or present employee on the farm. Only 10% had chosen the farm because they had a grudge against the farmer. Some offenders were unsure why the farm had been selected. Two thirds said that they had spent time planning the attack. Half of the offenders did not know the farm well and had to stake out the area for three to five days before the attack. Most of the attackers also said that they did not know any of the farm workers or other people living on the farm.

### **The kind of violence used**

In four of the five cases studied by the Committee the victims had been either shot and killed or stabbed and killed. The farmer and his wife in the North West Province were stabbed to death before being set alight. The wife of the farmer in one of the Mpumalanga cases was assaulted before being shot and her husband was also shot. In the other cases in KwaZulu-Natal, where the perpetrators deny that they were involved, the farmers were shot. In addition, in the Mpumalanga matter the elderly couple were tied up and badly assaulted.

The type of violence found in these cases is similar that in the study conducted by Mistry and Dhlamini. The most prevalent forms of violence used were burning, strangulation, stabbing and the shooting of the victims. Only a small number of offenders did not use any violence at all. In some cases a piece of cloth was put into the victims' mouth, and some were tied up and locked up. Interestingly enough, about half of the perpetrators said that the violence had been provoked, and that the victims could have avoided the violence by reacting quickly to their requests and by not arguing. Many admitted, however, that there was nothing that the victims could have done to avoid the violence. Alcohol or drugs did not play an important part in the violence, since 87% of the perpetrators were sober.

### **Knowledge about security**

The knowledge of the perpetrators interviewed by the Committee about security varied. For one perpetrator the possibility of being caught dawned upon him only after the attack, whilst another was confident that he and his accomplices would escape the long arm of the law.

The perpetrator in the North West Province only thought about the possibility of being caught after the attack. He was only worried about the likelihood of being shot by the farmer. In addition, he did not know anything about the commandos. By contrast, the perpetrator in the Mpumalanga matter was not worried about being caught, because he thought their plan was watertight. He was confident that the farmer would not be suspicious or be able to react quickly. Their plan was to take the farmer by surprise. Of interest in this particular case is the fact that the perpetrator disclosed that he had been trained by the SAPS when he had joined the special constables in the 1980s.

In the Mistry and Dhlamini study more than half of the attackers were not afraid of being caught by the police or commandos. (73% had not even heard of the commandos.) Three quarters of the offenders were not afraid of being shot by the farmer either, possibly because they had been able to reconnoitre the farm undetected. Most farms only had a fence and a gate as security.

### **Crime, criminality and sentences**

None of the eight perpetrators interviewed by the Committee had ever been a victim of crime. Seven of them were first time offenders and one had a previous conviction for car theft, although he had not served a prison sentence. They all thought that their sentences for the farm attacks were unfair and too long. These perpetrators did not think that their sentences were a deterrent, because they only realised the harshness thereof after being sentenced.

In the Mistry and Dhlamini study 54% of the offenders had previous convictions, some for robbery. Three (6%) had previously committed farm attacks, but had never been charged. Two had previously committed crimes such as stealing food on farms. As many as 89% of the offenders felt guilty about the attacks, for two main reasons: they knew they had done wrong, and they were concerned about their families and the future. Some thought they could have controlled their own tempers better or could have stopped their accomplices from becoming too violent. The greater majority of offenders (96%) were serving sentences of between 10 and 25 years, and they all felt that their sentences were unfair and too long. They did not think that harsh sentences were a deterrent to farm attackers, because at the time of the attacks they themselves did not expect to be caught.

### **Distance travelled by perpetrators**

The two perpetrators (in North West and Mpumalanga respectively) who admit involvement in the attack did not have to travel a long distance to the farms attacked. The one walked to the target and the other hijacked a vehicle in town for the purpose. The three in KwaZulu-Natal, who either say they were not involved or were wrongly implicated, also stayed near to the farms. One refused to answer the question and the other two travelled in a car to the farms less than thirty kilometres away.

The same pattern emerged from the Mistry and Dhlamini study. Some 58% of the attackers were less than 20 km from the farms which they targeted, as the crow flies, although on average the attackers had to travel 40 km to the farms. Only 12% were more than 100 km away from the farms.

### **Time of the attacks**

The time of day on which the attacks took place differed. In two of the attacks, one in Mpumalanga and the other in KwaZulu-Natal, the incidents took place around 11:00 in the morning. The attack in the Northwest and another one in Mpumalanga, took place in the afternoon, after 16:00. The time of day of the fifth attack could not be determined, because the accused denied involvement in the attack.

Many studies have shown that farm attacks can take place any time of the day or night. In the Mistry and Dhlamini study the point is made that in many attacks the time depends on the farmer's routine.

### **CASE STUDIES**

There are seven case studies that will be discussed below. The first is an incident in Mpumalanga, where an elderly couple were shot dead, and the second is a farm attack that took place in the North West Province where another elderly couple were stabbed then set alight by the attackers. These two cases were selected because the perpetrators admitted involvement and provided details to the Committee. The third is a case where the perpetrator claimed that he had been wrongly implicated, but when interviewed he provided the details that were in the police docket. This case was selected to show that, like in the previous study by Mistry and Dhlamini, perpetrators have a tendency of distorting facts or denying their involvement, and yet providing all the necessary details for the interviewer to understand the background to the attack. The fourth and fifth cases illustrate unnecessary violence, whilst the sixth case seems to indicate the abuse of youth by an older person. The last case study is also an example of excessive violence.

#### **Case Study One: Mpumalanga**

The perpetrator who was involved in this case says they chose the farm because it was

not far from where he lived, and one of them also had a relative who worked on the farm and told them that the farmer was rich. Their main intention was to steal money and firearms and then to kill the owners - particularly the husband, because when they had been doing their reconnaissance a week before the attack, he had harassed them. They had gone to the farm pretending to be interested in buying livestock, but the farmer had not listened to them and had chased them away. This attitude had angered them.

He says four of them were involved in the attack. First they hijacked a bakkie in town and then drove to the farm. Only three of them went into the house; the fourth attacker was left outside in the vehicle. The agreement was that two attackers would go inside the house and deal with the farmer's wife because she was alone at the time. Another would wait outside for the farmer to return home, as they were aware that he would arrive soon.

Two perpetrators went in and the third waited outside as agreed, but their plans were foiled because a dog barked when the farmer returned, and he saw the perpetrator. The farmer then rushed inside the house where the other two attackers were with his wife. The perpetrator interviewed says he knew that the farmer would not hesitate to shoot his accomplices, so he walked in behind him. When he got into the house he saw the farmer struggling with his accomplices for a firearm, so he decided to shoot him. The first person who was shot, however, was the farmer's wife. They then dragged the wife to the bedroom, searched for the money and keys to the 'BMW'. According to him, the farmer was not shot at the time - he just collapsed. After getting what they wanted, he shot the farmer and drove off in his BMW.

### **Case Study Two: North West Province**

The perpetrator interviewed in this case says four of them were involved in the attack. All of them were approximately 17 years old at the time and lived near the farm. The attack was planned at school during lunch break, as all of them were still at school at the time. They knew that the farmer had money because they used to buy livestock from the farm.

The attack took place a day after it had been planned. After school they all went to their different homes to change out of their school uniforms and leave their books at home. They then went to their meeting place and from there straight to the farm. When they got there it was raining, so they stood on the verandah for some time. The farmer came out and asked what they were doing there. They followed him inside, where they overpowered the farmer and his wife and demanded money. The farmer told them to look for it themselves and this angered them.

They stabbed the farmer and his wife and ransacked the house, looking for money, but they did not find any. The perpetrators decided to set the house alight to destroy any evidence such as fingerprints, because they thought that these were all over the house.

### **Cases Study Three: KwaZulu-Natal**

The accused in this case denies he was involved in the attack but, although he maintains his innocence, he says he knows why the farmer was targeted. He says 'the farmer was seen by the community as a troublesome person because he was not prepared to assist people with matters seen by the community as important'. For example, people wanted a thoroughfare through the farm so that they could get to the clinic and they also asked for a school to be built, but he was not prepared to assist in any way.

The perpetrator claims that he only learned about the killing four days after it had happened. He says that he was implicated by someone else who was arrested the same day as he was, and that person testified against him. As for the other evidence against him, he says that the police claimed that the firearm used in the attack was in his possession. He claims he had never seen it before, and he did not have it on him when he was picked up. It should be noted that the perpetrator lied during the interview. The police docket shows that he confessed to the crime.

#### **Case study 4: Free State**

There were two perpetrators involved in this case. One of the perpetrators had been working for the parents of the victim for two weeks prior to the attack. The victim was a 26 year old medical doctor. She was attacked on her way to work in the morning, after closing the gate on the road to her parent's home. The perpetrators say it took them two days to plan the attack. Both of them aver that their motive was to steal money, because they knew that doctors generally had money and that the victim's parents were rich.

They knew what time she left the house to go to work on a daily basis, so they waited for her at the gate. After she had closed the gate, they overpowered her and drove off with her to a deserted area, where they demanded money from her. One of the perpetrators claimed she gave them R 35 000, 00 cash which she was taking to the bank. They took her bank card and demanded that she gave them her personal identity number. Later on they withdrew R2 000 from her account.

The other perpetrator, however, says that his accomplice is lying - the only money the young doctor had was R500, of which his friend took R 310 and gave him R 190. They both declare, however, that the victim pleaded with them not to rape or kill her. One perpetrator states that they agreed that they were going to tie her to a tree and leave her there. After doing a body search and taking the money, the perpetrator who drove the car decided to turn the car around. He says that when he turned back, he was surprised to discover that his friend had strangled the victim and gouged out her eyes.

When he asked his friend why he had killed her, he replied that he had been afraid that she would have been able to identify them. His reason for gouging out her eyes in addition, was that he was afraid he would always see her image before him.

### **Case study 5: Mpumalanga**

All three perpetrators were under the age of 18 when they committed the offence. One of them had been an employee of the elderly couple. He says they took three weeks to plan the attack. They had attempted the attack twice before, but failed to carry it through. Their motive for the attack was to steal money.

The co-accused was a younger brother and their friend. The perpetrator says that after he had knocked off from the farm that afternoon, his friend and younger brother arrived. They overpowered the old man and demanded money from him. He refused to give them money, therefore one of them took a steel pipe and assaulted the old man. The old man collapsed and then they demanded money from the old lady, who also refused to tell them where the money was kept. She told them to look for it on their own. They ransacked the house but did not find anything.

The perpetrator then closed all the windows in the victims' house, released gas from a gas cylinder, locked the victims inside and set the house on fire. The couple died as a result of this. He says that he set the house on fire because he was afraid that the couple would call the police and identify him after he had left. The police arrested him and his two accomplices a day after the attack. He confessed to the police.

### **Case study 6: KwaZulu-Natal**

This murder case in KwaZulu Natal involved two juveniles. They allege that a woman who was a domestic worker on a farm, asked them to go with her to the farm to collect her clothing and money, as she had been dismissed from her employment.

Just before they entered the gate, she gave them knives and said they might need them. In the house she gave them some electrical appliances and cutlery. When they were about to leave, the farmer's wife appeared. The domestic worker told them that because the farmer's wife had seen them and would report them to the police, they should stab her. One of them then stabbed the farmer's wife, and they all fled.

The domestic worker was the first to be arrested, as one of the labourers had seen her after the incident. She later told the police that the two boys had attacked her and the farmer's wife and for that reason why she had run away. The boys were arrested a day later and eventually sentenced to fourteen years imprisonment each. The charges against the domestic worker were dropped.

This is an interesting case in that, according to African tradition, children should obey and assist adults if asked to do so. These boys allege that they were innocently assisting an adult who came to their home the morning of the attack.

### **Case study 7: Northern Province**

All four offenders involved in this case say that their only motive was to steal money. They had received information regarding money on the farm from a girlfriend of one of the offenders. The girlfriend's father worked on that particular farm, but she had not got the information from her father. She had been taken to the room where the safe was kept by one of the other farm labourers (who was probably her admirer). He had showed her the safe and told her that, whenever she wanted money, she should ask him. Instead, the girl had given the information regarding the safe to her boyfriend and his friends.

The offenders then planned the attack. They camped in nearby bushes for three days, studying movements on the farm. They attacked the farm on the fourth day, after the farmer had left in the morning. They approached the farm and told a farm labourer that they were there to pay for cows they had bought. After consulting with the farmer's wife, the labourer came back with a book to write down their names and take the money. He was then overpowered and had a gun pointed at him. The farm labourer was forced to take them to the farmer's wife, from whom they demanded money. She opened a drawer where there was some money. Because they knew there was a lot of money in the safe, however, they demanded that she opened the safe. Instead of opening the safe, she told them the safe keys were with her husband.

One of the offenders then got angry with the victim because he thought she was using delaying tactics and lying to them. He burnt her with the hot iron that she had been using when they had entered the house. They fled with R48 000 in cash and a Mercedes Benz worth about R240 000. All of them were arrested about two hours later, after they had been involved in an accident while fleeing. All the money was recovered.

## **CONCLUSIONS**

The results of the interviews of perpetrators by the Committee were very similar to those found in the Mistry and Dhlamini study. The most important findings can be summarised as follows:

None of these farm attacks were politically motivated. The major motivation for the attacks was robbery. This includes cases which received widespread publicity at the time as being examples of attacks being carried out with some underlying motives.

The perpetrators had prior information about the availability of money on farms targeted.

All of the attacks had been carefully planned, and in some of the cases prior observation of the movements of the farm residents had taken place over several days.

The perpetrators were all young and in some of the attackers were still at school.

The majority of them came from dysfunctional families.

Their level of education was low.

## **CHAPTER 8**

### **INVESTIGATING OFFICERS AND PROSECUTORS**

#### **INTRODUCTION**

Focus group interviews were carried out with police officers involved in the investigation of farm attacks in eight provinces, namely the Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape and Western Province. Typically these groups consisted of six to eight investigating officers. Although the commanding officers were usually present, the other members were encouraged to participate in the interviews. Many telephonic interviews were also conducted with various investigating officers from the North West Province and various other provinces.

Members of the Committee also conducted interviews with some fifteen prosecutors during the course of 2002. They were all state advocates attached to the Offices of the Directors of Public Prosecutions in Bloemfontein, Cape Town, Kimberley and Pretoria. Some of the state advocates were interviewed in groups, others individually. A few were contacted telephonically because they were not available. Two previous senior state advocates, now in private practice as an advocate and attorney respectively, were also interviewed.

#### **INCIDENCE AND NATURE OF FARM ATTACKS**

##### **History of farm attacks**

Most of the investigating officers interviewed state that they began to notice farm attacks as a specific phenomenon round about 1993 or 1994. Some of them are not sure when farm attacks started to occur, but they all agree that farm attacks have increased over the last four or five years. According to them, farm attacks as described by the official definition used to be rather rare, but all the investigating officers are of the opinion that farmers had not been immune to crime previously.

Investigating officers in the North West Province say that there has been a substantial increase in the growth of informal settlements as a result of high unemployment, and many farm workers who are unemployed move to these areas. They are of the opinion that some of these unemployed farm workers go back to the various farms to rob them. Due to the media attention that these attacks received, the SAPS began to record statistics.

Investigating officers in the Western Cape are of the opinion that 'farm attacks have always been with us'. According to them such crimes on farms were previously labelled as common law crimes, such as murder and robbery, rather than as farm attacks, but after 1994 these crimes acquired a political connotation and came to be called farm attacks.

Northern Cape investigating officers have a different perspective. According to them the increase in farm attacks 'is not out of the ordinary'. What has changed in their opinion is that perpetrators now use firearms and their victims are killed. However, they aver that crimes in general are more violent than they used to be. They remark upon the fact that previously perpetrators used to steal food and valuables lying around. This has changed, however: perpetrators have now turned to acquiring firearms and items kept in the safe. For this they often require the farmer to be present to open it, which is the reason why they wait for the farmer to return.

### **Geographic and racial distribution of farm attacks**

All the investigating officers interviewed are able to identify those areas in their provinces where farm attacks mainly occurred.

In Limpopo province the vulnerable areas are Naboomspruit and Warmbaths. Mpumalanga investigators identify areas such as Nelspruit, Whiteriver near the Kangwane Trust, Groblersdal, Marble Hall, Witbank and Greylingstad as susceptible to farm attacks. Investigating officers in KwaZulu-Natal think farm attacks take place 'all over', although the Highflats area was the 'worst', followed by the Eshowe, KwaMbonambi and Estcourt areas. (This latter area is difficult to police because it is 'wide and desolate'. Furthermore, the local police station is 'not working well'). Other problem areas listed are Weenen, Camperdown and Richmond.

In the North West the investigating officers estimate that 90% of the farmers are white whilst 10% are black. They feel that farm attacks are not confined to specific areas, but the areas worst affected are Focheville, Bloemhof and Mooi River.

In the Free State according to investigating officers there is a 'small percentage of black farmers'. Farm attacks occur 'all over' the province but they appear to take place mainly in Bethlehem and the border with Lesotho. However, in the northern and eastern Free State farm attacks are not confined to a specific area.

According to investigating officers in the Eastern Cape most farm attacks took place in the East London area.

Although black farmers do not constitute a large percentage of the farming population, investigating officers are not able to provide exact figures for their areas. Investigating officers in the Western Cape estimate that coloured farmers number less than 5% in their area. They add that there are 'very few' black farmers in the region. Farm attacks occur mainly in the Klappmuts area. In the Riemvasmaak, Richterveld and Mier areas of the Northern Cape there are 'lots of coloured farmers', who are described as 'poor'. Investigating officers say that there are a 'few black farmers' in the Hartswater area. In the Northern Cape farm attacks were prevalent in the Hartswater and Jan Kempdorp areas. In the more arid and far flung areas there are fewer farm attacks.

### **Characteristics of farm attacks**

The characteristics of farm attacks listed by the investigating officers corresponded with those found in previous research studies. Nothing to the contrary was found in the present study.

The investigating officers are of the opinion that perpetrators generally obtain information from either a former employee or a current worker on the farm. Some investigating officers say that where a former employee is involved he or she is usually the 'brain behind' the attack. Perpetrators usually spend time beforehand to observe the movements of the inhabitants of the farm. The daily routine that farmers follow provides the perpetrators with information about their movements. Some perpetrators go to the farms on the pretext of looking for work or wanting to buy livestock. Despite this, investigating officers are adamant that the perpetrators are neither professional nor highly organised. There may be a degree of organisation, but not to the extent observed with other serious violent crime, such as cash-in-transit heists or bank robberies.

The farm attackers typically arrive on the farm on foot and steal the farmer's vehicle in order to make a getaway. However, others flee the scene of the crime on foot. The perpetrators commonly work in groups of three or four and are aged between 18 and 35. Some perpetrators travel great distances, perhaps 200 or 300 kilometres, to their intended target. Many of the attacks take place on a Sunday when the farmers return from church.

Some of the investigating officers describe the bedrooms of farmhouses after a farm attack as 'chaotic', because the perpetrators ransack the place, looking for money, firearms and the keys to the safe. Telephone wires are often cut and safes raided. Farms are easy targets because the nearest police station is often far away. Investigating officers remark that it is 'rare' for perpetrators to flee without taking anything. If they do so they are either disturbed or they panic and flee. They continued by saying that the crimes committed on farms were 'ordinary crimes' such as murder and robbery, and not farm attacks per se. According to them the term farm attacks had a political connotation. Furthermore, they thought that the definition of a farm attack was particularly problematic with regard to smallholdings.

Investigating officers in Empanjeni, however, are of the opinion that each farm attack is 'unique'. They add that victims are often tied up. They also indicate that two rapes have occurred lately during farm attacks. However, investigating officers in Pietermaritzburg said that, although rape is uncommon, indecent assault sometimes takes place.

### **Motives of perpetrators of farm attacks**

All the investigating officers interviewed are of the opinion that the primary motive for the greater majority of farm attacks is robbery. They estimate that robbery is a motive in

90% of the cases. According to investigating officers in the Eastern Cape, Northern Cape and the Western Cape, farms where there is a shop or stall, or where livestock are being sold, are specifically targeted for the money. More importantly, the investigating officers are adamant that the attacks are not politically motivated and that there is no evidence that an organised political structure is behind farm attacks. Investigating officers generally blame the agricultural unions for persuading farmers that the attacks are politically motivated, despite there being evidence to the contrary. Revenge is a motive in only a very small number of cases.

The investigating officers also say that there is a perception amongst perpetrators that farmers are wealthy, therefore they rob them for their money. Some farmers keep large sums of cash at home instead of depositing the money in the bank. Firearms are also a favourite object. According to investigating officers in the Free State 'a gun is a cheque book', meaning that it is a sought after commodity. In addition, perpetrators rob cell phones, electrical equipment and vehicles. Vehicles belonging to farmers are stolen and used by the perpetrators to make a quick getaway. Investigating officers in the North-West Province state that perpetrators steal diamonds as well.

Perpetrators also specifically target farm shops, and investigating officers in the North-West Province estimate that 20% of the farm shops have been robbed. In the Eastern Cape, some farm shops are used as pension payout points, and this is a further attraction for perpetrators. Investigating officers in this province say that signs on farms advertising chickens, sheep or other farm produce for sale, create the impression that there is money on the farm. Furthermore, because farmers have safes in their homes, perpetrators think they have large amounts of money. Investigating officers in the Northern Cape express similar sentiments. The investigating officers in the Eastern Cape cite the example of a farming couple who live close to an informal settlement and who have been the victims of farm attacks five times. Some farmers have stopped farming, but are unable to sell their land because of the high risk of farm attacks. Clearly, according to the police, they were being attacked for economic reasons.

Investigating officers in Mpumalanga think that prior to 1990 the attacks might have been politically motivated because perpetrators arrested said they were members of APLA or MK (the armed wings of the PAC and the ANC respectively). Since 1994, however, they have found no evidence that perpetrators arrested for farm attacks have been members of either APLA or MK. According to the respondents in the Eastern Cape the researchers at the provincial CIAC office found no evidence to suggest that farm attacks were politically motivated. However, the investigating officers know of one case where a perpetrator told them that he was a member of APLA.

Where revenge was found to be a motive the investigating officers generally are of the view that a labour dispute triggered the incident. Investigating officers in the North West province cite the example of a farmer who had accidentally killed the father of a worker. The worker then murdered the farmer in a robbery attack. The respondents in the Free State say there have been three revenge attacks in that province over the last few years. According to investigating officers in the Eastern Cape the number of revenge attacks is

low.

Investigating officers in KwaZulu Natal cite examples of cases where the motive did not seem to be robbery. Empangeni investigating officers are unsure about the motive in one case because the farmer's bakkie was not taken, but they found no other evidence to suggest a different motive. Their colleagues in Pietermaritzburg, however, list three cases, namely, that of Redinger, Kirby and Buys as examples of complex motives. The attack on Redinger case might have been as a result of a land claim but, on the other hand, the father of one of the suspects had worked on the farm for some years making other motives a possibility. In the Kirby matter there was also a land claim by a township resident. However, the deceased went missing and the suspect in the case was a *sangoma*, also leading the investigators to suspect other motives. Investigating officers aver that in the Buys matter hit men were hired by a local shopkeeper to kill or attack Mr Buys, because he was 'undercutting him and taking customers away'. The hit men were convicted, but there was not enough evidence against the shopkeeper to convict him.

### **The victims of farm attacks**

According to the investigating officers victims of farm attacks include farmers, both black and white, as well as farm workers and domestic workers, as described in the official definition.) The investigating officers are unable to provide accurate figures on the number of black and white farmers residing in their police station area. The farmers who have been attacked are mainly elderly people living alone and regarded as soft targets. Some of the investigating officers say that black farmers have not been victims of farm attacks in Free State, Limpopo, Mpumalanga or the Western Cape. They speculate that farm workers are injured or killed because they are an obstacle in the way of the perpetrators.

Investigating officers from Limpopo province know of six incidents over last three years where farm workers have been victims of farm attacks. In addition, a domestic worker has been raped on a farm in the Vaalwater area. The investigating officers estimate that 30% of the victims are farm workers, while 70% are farmers or their families.

In KwaZulu-Natal the investigating officers cite examples of both black and white farmers being killed. The same applies to the North-West Province, where two black people have become victims of farm attacks of late. In the Northern Cape a coloured farmer and the wife of a farm worker have been victims of a farm attack in two separate incidents. The former was killed because of a wage dispute and the latter raped. Investigating officers in the Free State speculate that black farmers were not attacked because they 'don't have the same amount of valuables as white farmers' and 'they don't have enemies'. The Eastern Cape investigating officers cite examples of black farmers who have been robbed.

### **The victims' perception of farm attacks**

According to the investigating officers the reaction of victims to farm attacks vary. Most of the victims are shocked, angry and in a state of disbelief, and some of them think that the attacks were politically motivated.

A few of the victims are puzzled about the experience they endured. Consequently, they ask searching questions such as 'why us?' in order to make sense of their experience. Some cannot understand why they were targeted and say: 'We have done so much for them'. They also express a loathing for the perpetrators.

According to investigating officers in KwaZulu-Natal, a few of the victims acknowledge that they are soft targets. Some say that they were victims of broader socio-political circumstances. A few victims perceive the farm attack as a racist incident. Some victims in the Western Cape think that the attacks are politically motivated and become bitter. Since the victims associate the colour of the perpetrators with the investigating officers, this results in the latter being chased away whilst trying to do their work, although the victims usually change their attitude once the investigation is under way.

Investigating officers in the Northern Cape find that the perceptions of victims vary from one farm attack to the next. Some think there was a political motivation behind the attack, while others feel it was merely robbery. According to the investigating officers, it is often the 'outsiders' who label the attacks as political, rather than the victims themselves.

### **The perpetrators of farm attacks**

The investigating officers have found that the perpetrators are normally aged between 18 and 35. They usually work in groups of three or four. In general the perpetrators are not regarded as professional and well-organised. When apprehended, some perpetrators admit to committing the farm attack, but others deny any involvement. Perpetrators generally have previous convictions for various crimes.

In the Limpopo Province, the investigating officers estimate that in 50% of the cases the perpetrators have previous convictions for crimes such as house breaking, armed robbery and serious assault GBH. According to them, where Mozambicans or Zimbabweans are involved, the cases are characterised by extreme brutality.

Mpumalanga investigating officers find the perpetrators to be inexperienced since they often make mistakes. However, they acknowledge that individual perpetrators are not easily caught. Furthermore, perpetrators from outside the area are more difficult to apprehend since there is no information network.

Investigating officers in KwaZulu-Natal relate how a perpetrator congratulated them on 'a job well done' after his arrest. They feel that the perpetrators were well organised, e.g. they would talk to a worker who assisted with the installation of an electric fence to find out how it could be bypassed. The investigating officers have also found it rare for perpetrators to tell the truth. Investigating officers estimate that in 50% of the cases perpetrators have previous convictions, but some had never been caught before. Many have stolen firearms during other house breakings, without being caught.

Although investigating officers in the North West Province have not drawn up a profile of perpetrators, they say that they are typically young, unemployed, uneducated black males. They add that the perpetrators have previous convictions for various crimes.

Investigating officers from the Southern Free State area say that the perpetrators in their area are aged between 27 and 33, and usually have previous convictions for crimes such as stock theft and house breaking. They would typically steal firearms, money, food and valuables, and they usually eat food during the farm attack. If blankets and food are stolen then the investigating officers know that the perpetrators are unemployed people from the area. The investigating officers are of the opinion that the perpetrators kill their victims since they do not want them to be able to identify them.

In the Eastern Cape the perpetrators have previous convictions for crimes such as serious assault and housebreaking. According to the investigating officers it is rare for a perpetrator to have a previous conviction for a crime committed during a farm attack. Perpetrators are generally from the province and, where the perpetrators are known to the victim, they would wear balaclavas. This would also increase the victim's chances of being killed.

The investigating officers in the Northern Cape draw a distinction between the perpetrators in different areas in their province. According to them perpetrators who targeted the Hartswater area are from Gauteng and have committed serious crimes before. These attacks are well planned and they keep the farms under observation for a period. In the more arid and spread-out regions the perpetrators are locals and the attacks in these areas are not well planned.

### **Conversation between perpetrator and victim**

Some perpetrators have a limited conversation with their victims, confining themselves to requesting information on the location of high value items, such as money and the keys to a safe. Other conversations are tinged with racial or political overtones, however.

Investigating officers in the North West say there is nothing unusual about the conversation between victims and perpetrators. In the main perpetrators ask where the money is or where the key to the safe is. They may also order the victims to 'lie down and keep quiet'. The experience of investigating officers in the Eastern Cape has been the same, but they add that the perpetrators also enquire about the vehicles.

In the Free State the perpetrators tend to speak Sotho, a language which the farmers generally understand.

Investigating officers in KwaZulu-Natal aver that the perpetrators often use language with racial overtones. They said that racially abusive terms such as 'white bastard' or 'white bitch' are used by the perpetrators. However, the investigating officers think that the language may sometimes be 'provoked (by the victims) because they treat their workers badly'.

According to investigating officers in Limpopo perpetrators say they are members of APLA to intimidate their victims or mislead investigating officers.

### **Farmer and farm worker relationship**

Most of the investigating officers interviewed are of the opinion that this relationship changes in one way or another after a farm attack. In some instances farmers either harbour feelings of hatred towards their workers or have lost faith in people. This is more the case if there is suspicion that a worker was involved in the attack.

In Mpumalanga investigating officers say that after an attack the family usually move away. In their experience in many of the farm attacks the perpetrators have inside information, and often the farm workers give information to perpetrators after being paid or promised money.

Investigating officers in KwaZulu-Natal aver that farmers threaten to take the law into their own hands if they are not protected by the police. They add that some farmers do not treat their workers well. Some investigating officers cite the example of a manager on a government farm who was killed because, it was said, he had ruled his workers with an iron fist. Other investigating officers are of the opinion that relationships between a farmer and his workers 'do not necessarily deteriorate' after a farm attack, although farmers become 'more wary of their workers'.

In the Western Cape the investigating officers say that the relationship between a farmer and his workers varied from one farm to another. However, they feel that these relationships are generally good, and that relationships are particularly good between the younger generation of farmers and their workers.

According to investigating officers in the Northern Cape the relationship between some farmers and their workers became closer after the farm attack. This could be seen, for example, in the reaction of the people at the funeral of a victim.

Investigating officers find that relationships between farmers and workers vary from one farm to the next. In general they describe the relationship between a farmer and his workers as 'good', but added that this was particularly so with 'younger farmers'. In the Northern Cape investigating officers noticed that this relationship varies after a farm

attack. If there is suspicion that a worker was involved in the farm attack in some way, there is distrust. Investigating officers in the Northern Cape also remarked that farmers were making use of casual seasonal workers.

### **Security on the farms**

In general most of the investigating officers describe security measures on farms as 'inadequate'. Not all farmers are able to afford security features such as burglar bars and alarms. Most of the farmers have marnet radios, however, and Commandos also provide protection in some of the areas. Some investigating officers concede that even sophisticated security measures will not always guarantee that the farmer will be immune from attacks.

Investigating officers from Limpopo say that security is 'virtually non-existent' on farms in their area. The reason is that farmers operate under the misconception that farm attacks 'happen to others'.

In the North West the investigating officers also think that security is inadequate. Farm houses do not have burglar bars on the windows, or even fences on the perimeter.

Investigating officers in the Free State also say that security measures on most farms are 'inadequate'. They say that the farms that are attacked often have no security at all, for example, doors are often not even locked.

In the Eastern Cape investigating officers aver that security measures on farms are 'non-existent'. They say that there is no burglar proofing on the windows. However, they concede that farm security is a complicated issue because even farms with the 'best' security have been attacked. They cite the example of someone who was killed despite having excellent security, including bullet proof windows.

Investigating officers in the Western Cape also find that doors are often not locked. There is a lack of burglar proofing in front of the windows as well. They add that there are in fact very few instances where break-ins actually occur in the sense of a door or window being broken.

In the Northern Cape, on the other hand, investigating officers reveal that although there may be some form of security, it is usually not used. For example, they found gates were left open, thereby making it easier for strangers to access a property. Furthermore, they feel that the selling of liquor on a farm posed a security threat to the farmer. However, in the Hartswater area private security companies were hired to safeguard properties, and Mapogo a Mathamaga was active in some areas too.

Investigating officers in KwaZulu Natal agree that that some of the farmers have good security. Only a few can afford to pay for the services provided by private security companies. In some parts of KwaZulu Natal, such as the Port Shepstone area,

investigating officers are of the opinion that the Commandos and Farm Watch members operate as if they were 'a law unto themselves'. In other areas such as Empangeni, the Commandos are not active but the Farm Watch and police work together. Investigating officers from the Pietermaritzburg area aver that the Commandos have 'made a difference in areas such as Weenen and Muden, where they do patrol'. In an area such as Estcourt, both the Commandos and a Farm Watch exist. In the Drakensburg area armed guards of the Parks Board patrol in the vicinity of the farms, since they are on the border of the nature reserve and Lesotho.

### **Comparison between urban and rural crime**

There has been a great deal of debate about the violence used in a farm attack. Some people believe that farm attacks are more brutal than crimes committed in the urban areas. However, the investigating officers have a different opinion. The investigating officers generally agree that there is no difference in the level of violence used in crimes on farms and those in urban areas. The same crimes that are committed in the rural areas are also being committed in the urban areas. They reiterate that 'there is no difference between a murder in a city and on a farm'. All the investigating officers are of the opinion that rape was unusual during a farm attack.

Some investigating officers in the North West feel that the violence against farmers is more gratuitous, perhaps because the perpetrators have 'more time to assault and torture their victims'. The investigating officers say that some victims 'fight back' and this may result in violence being used against them.

Limpopo Province investigating officers feel that the level of violence in farm attacks is 'severe'. However, as mentioned earlier they are of the opinion that where Mozambican or Zimbabweans are involved the attack is often brutal. (It is not clear what proportion of perpetrators in Limpopo are Mozambican or Zimbabwean nationals.) According to investigating officers these perpetrators 'throw out their inhibitions'.

Investigating officers in KwaZulu Natal refer to a particularly brutal farm attack, where the victims were assaulted with bricks and shot, but all survived. According to the investigating officers the perpetrators were former workers on the farm. Some investigating officers in KwaZulu Natal feel that the victims in a farm attack are ill-treated more than other victims and that these victims are terrorised for a long period of time. They attribute this to the amount of time perpetrators have at their disposal. Other investigating officers, however, say that although farm attacks are brutal, the same applies to cash-in-transit heists. They define brutality in terms of hacking and stabbing of the victim. However, they are of the opinion that race does not play a role in such matters. According to them the 'more experienced the perpetrator, the less violence there is'. Mpumalanga investigating officers felt that violence has increased since the moratorium on the death penalty came into effect. They find offenders to be 'more opportunistic'.

According to investigating officers in the Western Cape, robberies such as café robberies are just as brutal as farm attacks. The victims are killed equally easily in both instances. Furthermore, they added that there is no difference between an armed robbery on a farm and one in an urban area, because gangs are involved and they intimidate the victims. Most of the victims in the Western Cape have been killed. Only a few women have been raped, however, and post mortem examinations carried out on deceased victims also showed no evidence of sexual assault in most cases. They reiterate that there have been only a 'couple of rapes over the last few years'. In 2001 there was one rape in six or seven farm attacks.

The Northern Cape has also had a 'few rapes' according to the investigating officers. They cite the example, however, of a farm worker who was raped several times by an attacker. They indicate that out of the eight farm attacks in the Hartswater area there has been one rape of a farmer's wife. In other areas there has been none.

Investigating officers in the Western Cape and Northern Cape aver that crime in the rural areas of their provinces is mainly social fabric crime. They are of the opinion that these crimes are related to alcohol abuse. Other crime prevalent in their areas is common robbery and stock theft. They also conclude that fatalities during farm attacks are often due to the aggressive attitude displayed by victims, particularly elderly people. In contrast those in the Northern Cape attribute murders and excessive violence to the fact that crime has become more violent. They are of the opinion that victims are murdered to prevent identification of the perpetrator.

There has been one case where a corpse was 'decorated'. This occurred in Christiana in the North West province. None of the investigating officers in the other provinces had similar cases.

## **INVESTIGATION OF FARM ATTACKS**

### **Investigating officers**

It appears that farm attacks are generally investigated by specialised units. These are mostly the Serious and Violent Crime Units, which have largely replaced the old Murder and Robbery Units. The members interviewed investigate not only farm attacks, but also other serious violent crime. Irrespective of the name of their units, however, these members are all well-trained and seasoned investigating officers, most with many years of experience.

### **Investigative techniques**

All the investigating officers agree that the first 48 hours after a farm attack are the most crucial for the investigation. None of them have received specialised training in respect of farm attacks. Many say they have learnt on the job and gained experience in this way.

Furthermore, the case management approach is used to manage the investigation. Some of the units prioritise the investigation of farm attacks whilst others do not. The techniques used in investigating farm attacks are no different to other similar serious violent crime. However, there are additional resources available to some of the investigating officers in the various provinces under scrutiny. This is in the form of Commandos and Tracking Units.

The investigating officers usually work from the crime scene outwards. This means that they question all the inhabitants of the farm, and then do the same at neighbouring farms. Farm workers are therefore crucial to the investigation. The investigating officers follow any leads emanating from their discussions with the victim's family, farm workers and neighbours, but they also place heavy reliance on informers. Experts such as the Forensics specialists, ballistics experts, fingerprint experts and crime scene technologists, are typically called to the crime scene, as they would in other serious cases. In some instances a helicopter is used to track down the suspects.

In Mpumalanga a crime scene manager is appointed who directs the investigation and makes decisions about the deployment of additional resources. The crime scene manager then appoints an investigating officer who manages the crime scene. Three investigating officers are left to comb the crime scene whilst the others undertake fieldwork. This entails gathering information in the area that may be pertinent to the crime.

Investigating officers in KwaZulu-Natal admit that they 'go into more detail for farm attacks than for other cases', because they interview all the people on the farm and spend more time at the crime scene. After the first 48 hours they form a team, known as the 'call group', and they are responsible for the investigation for the first seven days. The docket is then handed over to specific investigating officers for further action. The case at hand is discussed at regular staff meetings. Furthermore, the investigation of a farm attack is 'intensive for the first two weeks' and this results in the other cases on hand being put aside. Some indicate that their docket load consists of 30 cases each.

In the North-West Province the police make use of helicopters to track down the suspects. The investigating officers in this province describe farm attack investigations as 'labour intensive' but they do not make use of any special investigative techniques. They generally use the same techniques as their colleagues in other provinces. However, they find that farm workers are usually quite scared to say too much because they fear the perpetrators. They also find that some victims do not want the police to use black detectives, although this sentiment usually falls by the wayside once the investigation gets under way.

Investigating officers in the Free State examine the crime scene to determine what kind of perpetrator they need to find. For example, the investigating officers are able to ascertain if the suspect is a violent person by the number of shots fired at the crime scene. Furthermore, the wounds on the victim may also indicate if the suspect is a violent person. They form a team comprising of up to seven investigating officers, who interview farm workers and go to the neighbouring farms. If a vehicle belonging to the farmer was

stolen the media is contacted so that the perpetrators are apprehended more speedily.

In the Bushveld area of Limpopo Province a contingency plan has been drawn up. In it the Area Operational Co-ordinating Committee (AOCOC) has spelt out what should be done at the scene of a farm attack. In sum, a Joint Operations Centre (JOC) is set up, from which the investigation of the farm attack is co-ordinated. Any information emanating from the investigation must be relayed to the JOC, which then sends it on to the relevant person. In this particular area a Tracking Unit, Disaster Management Team, Commando Unit and Airwing are mobilised for the investigation. Each of the stakeholders has a clearly defined role in the contingency plan, hence there is no confusion when the plan is put into action and valuable time is not lost. The plan also states who will be in command of the investigation. Investigating officers leave their existing work to concentrate on the farm attack concerned. Some investigating officers are even said to sleep at the crime scene or work throughout the night to apprehend the suspects. The informer network is also a valuable source of information. Investigating officers comb the crime scene to determine whether or not the attackers fled on foot or by car.

Investigation techniques are not the only tool at the disposal of the investigating officers. They are also able to rely on the assistance of SANDF commandos, which play a constructive role in some areas.

### **Commandos**

The investigating officers are of the view that the commandos, where they work together with the SAPS and the SANDF in terms of the Rural Safety Plan, play an important role in farm attacks.

The investigating officers report that, in respect of crimes on farms, a commando system is in place in several areas. These commandos are tasked with assisting the police with rural safety and security, but their effectiveness varies from one area to the next. The commandos are often made up of local farmers who may or may not be former members of the SANDF. They are issued with weapons from the state. Many farmers in the rural areas are linked to each other and to a control centre via a shot wave radio system (usually the so-called marnet system). The commandos are often the first to receive a call for assistance from the farmer under attack, since the police station is frequently far away. The commandos then call the police and inform them that a crime has been committed. The commandos set up a roadblock or start looking for the suspects.

The commandos are both being praised and criticised by investigating officers for their role after a farm attack. In some areas, such as Limpopo, the commandos are drawn into a structure such as the Joint Operations Centre (JOC) and play a useful role. In other provinces, such as the Eastern Cape, the investigating officers have found that members of the Commando who arrive at the crime scene sometimes destroy vital evidence by trampling on it. Ideally the commandos should either cordon off the area or maintain a

distance from the crime scene.

### **Tracking Units and other assistance**

Although the investigation techniques used by the investigating officers in the various provinces are very similar, those in the Eastern Cape, Free State and Northern Province have additional expertise in the form of the Tracking Units. Often the members used to belong to the 'Koevoet' reconnaissance and tracking unit of the former SADF, used in Namibia and Angola to track down SWAPO guerrillas during the Angolan war.

The Eastern Cape has a Tracking Unit based in Grahamstown. It has nine members who work for other units in the SAPS. When they are notified of a farm attack the nine members join forces and set out to track down the suspects. They set their other work aside in order to do the tracking. Unlike the Tracking Units in the Free State and Limpopo, these are not ex-Koevoet members, although they have been trained by ex-Koevoet members. They usually meet the investigating officers at the crime scene where a JOC is set up. The JOC is made up of the Commando, SANDF, SAPS, Airwing and Farm Watch. The members of the Tracking Unit follow the tracks of the suspects on foot. Although they work on the perimeter of the crime scene they consult the locals of the area. They have been able to track a suspect down in 24 hours. In one case they followed the tracks of a suspect right to the place where he was sleeping. Unfortunately this unit only works in the Grahamstown area, and the other areas in the province have not called upon their expertise.

The Tracking Unit in the Free State is usually called in to assist the investigating officers. This unit comprises of three members, based at Theunissen, and endeavours to assist at most of the scenes of farm attacks. All the members of this unit are former Koevoet members, two being from Ovamboland in Namibia. The members go to the crime scene to determine how the suspects gained entry and to examine the path they followed after their departure. From the size and nature of the tracks they normally deduce the height and weight of the attacker. The tracks also show how the person moves, e.g. whether he is walking, running or limping. According to members of the Tracking Unit, perpetrators generally run away from the scene of the crime but stop running after about 100 metres in order to avoid arousing suspicion.

In Limpopo Province a Tracking Unit as well as a Dog Unit is called in to follow the tracks, where the attackers fled on foot. In this area the Tracking Unit has 12 former Koevoet members, who are originally from Ovambo in Namibia. According to the commanding officer of the detectives interviewed, the success rate of the Tracking Unit is 90%. In addition to having the expertise of former Koevoet members, the Airwing is of the SAPS is mobilised. The commanding officer also states that since the plan was put into place, the investigation of farm attacks has been very successful.

The value of the Tracking Units cannot be underestimated. They have made a significant contribution to the apprehension of perpetrators of farm attacks. The investigating officers complain, however, these units have limited resources (both human and logistical) and are considered a 'dying breed'.

## **Response by the security forces**

Once the alarm is raised on a farm all stakeholders, that is the SAPS, Commandos, Farm Watch and neighbours who can assist, try to react in the shortest possible time. The response time of the various units of the SAPS varies, but if Commandos are active in an area they will usually be the first to arrive at a crime scene. All the investigating officers agree that distance plays an important role in response time - the further the farm, the slower the response time.

Limpopo Province investigating officers estimate that the response time for the SAPS range between 20 to 45 minutes, depending upon the distance between the police station and the farm concerned. In Mpumalanga, in order to speed up the response times the roads are clearly marked. The main roads are allocated a letter of the alphabet whilst the farm roads are numbered. This ensures that the farms are easily identified and the local police station personnel can find their way easily.

In KwaZulu-Natal investigating officers say that the rural police stations do not have appropriate vehicles for the rugged terrain, and it can take the Murder and Robbery Unit more than three hours to reach a crime scene in the northern part of the province. In addition, they complain that ballistics and fingerprint evidence takes a long time to process. They also raise the issue of witness protection, in the light of witnesses refusing to testify due to intimidation. Some potential witnesses are scared to come forward and to provide information. Furthermore, the investigating officers are concerned about the safety of witnesses and advocate the need for special courts and *in camera* proceedings. The investigating officers also mention a serious case in Highflats, where exhibits were stolen and the Commandos ruined evidence on the crime scene.

Investigating officers in the Empangeni and Pietermaritzburg area are of the opinion that the criminal justice system is 'quick' to respond. This is attributed to the farmers, however, because they are 'well organised' and they 'work together with the police'. The farmers also assist the police by providing vehicles for their use. According to the investigating officers, the sentences handed down are 'better than before', although they have different opinions as to whether or not sentences have any deterrent value. A few of them are of the opinion that young people are 'uneducated' and 'do not understand the implications of their acts'.

The problem of vast distances was reiterated by investigating officers in the North- West Province. To get to the furthest point in that province requires two hours of travelling. However, they describe the local police station response as 'rapid - within 30 minutes'.

Investigating officers in the Free State describe the SAPS response time as 'immediate'. However, where the perpetrators have cut telephone lines, the reporting of the attack is delayed.

In the Eastern Cape the investigating officers are of the opinion that the response time depends on who receives the call first. According to them there is 'chaos' if the

commandos and the local police officers are the first to arrive at a crime scene, rather than the specialist units. If a farm attack occurs after hours the specialised units would arrive at the scene of the crime in less than an hour, although if the telephone lines are cut they may be the last to arrive at the crime scene.

Investigating officers in the Western and Northern Cape also acknowledge that long distances between farms and the local police station have an impact on the time it takes for the SAPS to respond. Those from the Western Cape add that because of the distance, the Forensics Unit based in Cape Town takes a long time to get to the scene of a crime in a rural area. Although the use of helicopters contributes to a speedy reaction, there has been an instance where the helicopter had to return to base due to insufficient fuel.

### **Battle indicators**

Most investigating officers interviewed are rather sceptical about the battle indicators theory. None of them have come across any of the signs that could be termed battle indicators in respect of a farm attack.

In Mpumalanga the investigating officers feel that the theory of battle indicators 'do more harm than good', because it creates 'fear and suspicion'. Despite this, they seem to think that there are signs or markers that carry a specific meaning. For instance, a bottle in the road may mean people have been poaching animals and would return later, and plastic bags on a fence may indicate that stock theft will take place in that area.

Investigating officers in the North West do not have much faith in battle indicators. They say many so-called signs have innocent explanations, e.g. knots in the long grass may be markers for people cutting grass in the area.

In the Free State signs or markers are used mainly for stock theft and dagga smuggling.

Only one investigating officer in the focus group in KwaZulu Natal has heard of the battle indicators, while the others do not know anything about it.

### **Conviction rate**

Most of the investigating officers are of the opinion that the conviction rate was rather high, their estimates ranging from 50% to 90%. The high conviction rate is attributed to various factors, such as good police work (including investigations), the fact that the more experienced prosecutors deal with farm attacks, and the fact that the cases are well prepared. Furthermore, the investigating officers state that the arrest rate is 'good'. It is apparently 'extremely rare' for prosecutors to decline to prosecute in such matters because of insufficient evidence. Some investigating officers say that 'tough sentences, usually the maximum' are imposed on the perpetrators. According to investigating officers in the Free State perpetrators of murder are not given a sentence of 'less than 40

years'. However, they complain about perpetrators of stock theft being released too early. Despite the stiff sentences, some investigating officers say that these do not act as a deterrent to potential criminals. A few of the investigating officers think that capital punishment is preferable to long terms of imprisonment.

### **Unsolved cases**

Most of the investigating officers are of the opinion that there are examples of cases that have not been solved over the last few years.

In the Western Cape investigating officers claim that all their cases have been solved or are still under investigation. The Northern Cape cite one case where there has been no arrests due to a lack of evidence, while the Director of Public Prosecutions has declined to prosecute in another matter. Limpopo investigating officers aver that only the 'very recent cases' are unsolved because investigations have not been completed. North West province investigating officers indicate that out of the 81 cases in 2001 there have been arrests in 31 of those matters.

## **THE PREVENTION OF FARM ATTACKS**

Many of the ideas put forward by investigating officers involve the farmers taking more responsibility for their safety and security. Investigating officers interviewed made the following suggestions:

Farmers should get full particulars of their workers, carry out background checks on their staff, and take fingerprints and photographs.

If the farm is sold and the workers remain on the farm, the new owner should be given the afore-mentioned information.

Workers, and especially foreign workers, without documentation should not be employed.

Communication between farmers and their workers should be improved and farmers should strive for better relations.

Workers should be regarded as informers. They should be made part of the security system on the farms.

Security needs to be improved on the farm. No security system is infallible, but it should be implemented as far as possible.

Farmers need to be more vigilant and vary their daily routine.

Sector policing needs to be introduced in the rural areas.

Community Police Forums should be established in the rural areas.

Some investigating officers in KwaZulu Natal and the Eastern Cape feel that the

moratorium on the death penalty should be lifted. Their view is that this would help to address the crime situation. They complain that the Constitution gives 'perpetrators many rights' which protect them unduly.

## **INTERVIEWS WITH PROSECUTORS**

Their ranks included junior state advocates, senior state advocates and deputy directors of public prosecutions. All of them were either experienced or very experienced, and some of them have conducted many prosecutions in farm attack cases. Many of them conducted the prosecution in some of the more prominent farm attack cases, including some of the cases discussed in the chapter on case studies, such as those of Cross, Delafield, Holder, Marais, Steyn, Van Vuuren, etc.

The most notable features emerging from the interviews are the following:

The state advocates were unanimously of the view that all or almost all farm attacks were not political in nature. Some state advocates have come across a few instances where there was some inconclusive evidence pointing towards a political motive. Even cases where there had been some *prima facie* evidence of political motives, such as the Delafield case, had turned out to be cases of ordinary armed robbery and murder. Apart from the evidence admitted in court, the police dockets did not contain other information concerning political motives, although the victims or other witnesses often perceived farm attacks to be politically inspired.

At the same time, all were of the opinion that the degree of violence and cruelty exhibited during farm attacks was exceedingly high, and they referred to what can only be described as horrific cases. Almost all also thought that farm attacks were in general more violent than armed robbery. In general, therefore, the opinions of the state advocates differed from the opinions of most investigating officers that other types of armed robberies were equally violent. (It should be pointed out that, in general, state advocates deal with the more serious kinds of farm attacks in the High Court, the less serious ones being disposed of in the Regional Court.)

Most white state advocates attributed this extreme violence to racial hatred. One black state advocate thought it was rather the result of brutal criminality. Some had also found that the high degree of violence had been caused by the victims (usually the elderly ones) being aggressive, verbally or otherwise, and resisting under circumstances where they should rather submit. They pointed out, however, that in many cases the violence was quite gratuitous.

All confirmed that relatively few cases of rape occurred during the course of farm attacks, although it was not uncommon. (Again it should be mentioned that cases where rape has occurred are more likely to end up in the High Court, rather than being disposed of in the Regional Court.)

They thought that the farm attacks were generally well-planned and often preceded by reconnaissance of the particular farm or smallholding. They were firmly of the opinion that farm attacks were not being carried out with 'military precision'.

They all agreed that on many farms the security arrangements were inadequate or even non-existent.

The state advocates were of the opinion that there was a high success rate for solving crimes relating to farm attacks (about 90%), and an even higher success rate for prosecutions of those cases that did go to court (about 95%). They were unable to provide specific statistics, however.

The points below were raised by the state advocates as possible counter-measures for farm attacks. It is noteworthy that they all relate in some way to matters of security.

There should be visible policing at irregular intervals. In this regard the sector policing plan holds some promise. Movements between farms should be monitored, even by establishing control points.

Security on farms in general should be stepped up. Farm workers also play an important part in this regard.

Potential victims should be trained on how to handle farm attacks when they do occur. This may well save lives.

## **CONCLUSIONS**

The most important finding emanating from the interviews with investigating officers and prosecutors is that the main motive for farm attacks is robbery. More specifically, there is no evidence to suggest that farm attacks are politically motivated.

As to the violence involved, there is some divergence of opinion. The investigating officers think that there is no difference between the type of crime committed in a rural area and an urban area. Investigating officers describe urban crime and rural crime as equally brutal. The prosecutors, on the other hand, think the farm attacks tend to be more violent than comparable offences in the cities and towns.

Both groups describe the security arrangements on most farms as inadequate or totally inadequate.

Both groups regarded the conviction rates for farm attacks as high. Investigating officers attribute this to hard work and dedication. The prosecutors also think that a very high percentage of farm attack cases are solved and successfully prosecuted. It is clear that all the investigating officers and the prosecutors interviewed are dedicated officials and very experienced as far as farm attack cases are concerned.

## **CHAPTER 9**

### **SUBMISSIONS TO THE COMMITTEE**

#### **INTRODUCTION**

The Committee invited interested bodies and individuals, through the media, to make submissions on the question of farm attacks. The response was disappointing, and the Committee had to resort to send out invitations to specific bodies and individuals. All of them responded, with the notable exception of the Pan Africanist Congress, and the Committee wishes to express its appreciation for the effort many put into their submissions.

The Committee heard submissions from about 32 persons, on behalf of an organisation or themselves. Many of them submitted written submissions as well, while written submissions were also received from other persons not appearing before the Committee. Lack of space does not allow them all to be included here, but the more generally relevant ones are dealt with below. The other mostly relate to specific cases, and where necessary are referred to in other parts of the report.

It will be seen that the submissions came from a wide variety of bodies or individuals who have an interest in the matter of farm attacks, expressing extremely diverse opinions on the subject. That was arranged deliberately by the Committee. The submissions can be divided into four broad categories, viz. those by organised agriculture, by the security forces, by other Government Departments and non-governmental organisations, and by individuals.

#### **SUBMISSIONS BY ORGANISED AGRICULTURE**

##### **Agri SA: Mr J.M.J. Visser and Mr J.J. Ferreira**

Mr. Kobus Visser is Director of Agri SA Governmental Services and Mr. Kiewiet Ferreira is Chairperson of the Law and Order Committee of Agri SA. They made a joint submission to the Committee on 2001-07-04. This was followed by a further meeting with Mr Visser and Adv Amanda Crosby, a Legal Adviser at Agri SA, on 2001-07-10. Agri SA also submitted a written submission entitled 'Submissions to the Independent Research Committee as to possible motives for farm attacks'.

##### *Agri SA as an organisation*

Mr Ferreira describes the background to the appointment of the Committee. Because the situation regarding farm attacks had deteriorated so much, Agri SA requested Mr Steve Tshwete, Minister of Law and Order, in February 2001 to appoint an independent

research committee on farm attacks. That resulted in the appointment of the Committee.

Agri SA consists of three chambers: the Provincial Chambers, the Commodities Chambers (e.g. NAMPO, Grain SA), and the Agri Business Chamber (17 chambers, including SentraSure, KWV, etc). Agri SA has a federal structure. No individuals can be members of Agri SA; people belong to Agri SA through affiliations such as Kwanalu, Agri Western Cape etc.

The individual farmers belong to local or District Agricultural Unions, which in turn make up the Provincial Agricultural Unions, which form part of Agri SA. Agri SA represents 31 000 large-scale and 30 000 small-scale commercial farmers. A large-scale farmer can have more than one farm. Smallholders with the motive to generate a profit out of their agricultural activities can affiliate with Agri SA (e.g. flower producers through the Flower Growers' Association). Provincial associations have the autonomy to categorise farmers into small- and large-scale farmers. About 50% of Agri SA's members (for both small- and large-scale farmers) are black. The Transvaal Agricultural Union left Agri SA on 2000-05-01, taking 2 663 members with them.

Part-time farmers' unions (co-opted with Agri SA) cater for people who engage in farming on a part-time basis. Their members are not included in Agri SA figures for commercial farmers, but many part-time farmers also associate with provincial farmers' unions and as such they would be included in Agri SA's figures for the farmers they represent.

Commercial farmers are farmers who produce with the motive to make a profit out of agriculture. This excludes farmers who farm for self-sustainability or subsistence farmers. Agri Free State decided 4 years ago that a person who registers with the S A Revenue Service as a farmer can affiliate as a commercial farmer.

There are many farmers who are not associated with any farmers' organisation/union, but about 60% to 70% of large-scale farmers are members of farmers' organisations. Ferreira does not know what the proportion for small-scale farmers is.

According to Statistics SA there were 52 000 large-scale farmers in 1996. AgriSA estimates that there are about 45 000 large-scale farmers in SA. There are probably around 800 000 farm workers in SA. As far as Agri SA is concerned, however, the farming community includes everyone on farms - farmers, farm workers and their dependents.

#### *Reasons for farm attacks*

According to Mr Visser, there are more motives than simply criminality in respect of farm attacks. It is important to look at what lies behind a robbery, for example the culture of violence, statements politicians have made against farmers, etc. The following 'underlying' reasons require further investigation:

Culture of violence. South Africa's history of confrontation, conflict and forced

removals has left a culture of violence.

Culture of self-enrichment (due to inequalities and frustrated expectations).

Poverty, unemployment and disparity of wealth contribute to crime.

Revenge and hate. This factor has been shown up in the Action: Stop Farm Attacks research. There is circumstantial evidence, such as letters to the press and a television interview with two perpetrators. Mr Visser also refers to specific farm attack cases. Political leadership is not disputing perceptions that injustices were committed by white farmers in the past.

Working relations on the farms. The perception has been created the farm attacks are the result of farmers ill-treating their workers and that white farmers can be blamed for the murders. These perceptions are incorrect and must be removed.

Racism. This is the perception of farmers. Judge Johan Els of the Pretoria High Court said in early 2001 in his judgement that racism was the motive in that particular attack.

Inflammatory statements. Several instances of such statements are cited.

The land claims process needs to be sped up. Only 10 000 out of 76 000 claims have been dealt with.

The Rural Protection Plan is well designed and sound, but there are many districts where the farming community does not get involved enough in the plan. Nationally, for example, only 25% of farmers are commando members - many left after the 1994 election. However, farmers are now coming back. Some farmers do not get involved for political reasons - they argue that it is the responsibility of the Government to protect them.

The SAPS has got infrastructural and resource limitations, and the same applies to the SANDF. In areas where there is visible policing in co-operation with Farm Watches and Commandos, there are fewer farm attacks. Where there is a lack of resources from the side of the security forces such patrols do not take place.

The criminal justice process is too slow: Witnesses go to court a number of times and cases are often postponed. Trials take too long to be finalised, with the result that the community have to wait too long to see justice being done.

Agri SA wants to implement a national security system with Telkom, which is connected to all farmers in the country.

### **Transvaal Agricultural Union: Col J.J. Niemann and Mr J. Loggenberg**

Col Boela Niemann (Manager: Rural Protection) and Mr Jack Loggenberg jointly made submissions on behalf of the Transvaal Agricultural Union to the Committee on 2001-06-20. They also submitted a written submission, entitled 'Voorlegging deur die TLU Kol.

Boela Niemann & Mnr Jack Loggerenberg aan die spesiale ondersoek na plaasaanvalle & moorde'. The two persons also had several follow-up meetings with the Committee, and the Committee also had many informal discussions with Col. Niemann. The Committee was also shown a video clip of a farm attack in Naboomspruit, during which the farmer and his wife had been killed and the wife raped as well.

The TAU is a national organisation with a membership of 6000 to 7000. There are many farmers not affiliated to any agricultural organisation, however, and TAU wishes to speak also on their behalf. The TAU also gets a lot of enquiries from the broader (non-farming) community about what the TAU is doing about farm attacks.

The TAU estimates there are approximately 40 000 commercial farmers in SA, excluding subsistence farmers and smallholdings, and excluding farm managers who manage a farm for someone else, as they are employees. The figure is based on the 1991 census, which counted about 60 000 commercial farmers, and since then numerous farmers have been sequestered or have died, while young people are less likely to become farmers. If communal or subsistence farmers are included, then there will be 150 000 to 200 000 'farmers'.

The TAU is not saying that 'genocide' is being committed against farmers, but rather that it is the perception of farmers on the ground. Perceptions are important, and the Committee should look at all kinds of perceptions that exist. The media tends to sensationalise farm attacks, instead of trying to assist in getting to the bottom of the phenomenon of farm attacks.

The Committee might not be able to make findings on facts only, but should look at circumstantial evidence as well. It needs to look beyond the symptoms, to the causes of farm attacks.

One should ask the question: 'Who is benefiting from farm attacks?' It might be criminal gangs and warlords, but it could also be people in favour of the land redistribution. It need not be the Government, but it could be people who support the Government's policy and want to speed up the process.

One must take cognisance of the emotions that arise from the farm attacks. Farmers argue that scenes of farm attacks are not shown to the public but that, for example, the dog unit incident is. The TAU has a problem with the argument that farm murders should not be publicised, as this might encourage copy-cat attacks. Farm attacks are too serious for the country not to be informed about.

The President needs to say that farm attacks should stop. Some ministers have made such comments, but these comments are not strong enough. It is important to do so in the light of slogans such as 'Kill the farmer, kill the Boer'.

All poor people do not commit crime, but poverty can be a cause of crime (as some people cause crime). Thus, poverty is a cause of crime. All farm attackers are not poor. However, poverty is a contributing factor. What needs to be established, therefore, is

what the causes of poverty are. One has to be able to answer that question to stop the 'poverty-farm attack' link.

The security forces need to do more than simply respond to farm attacks and have a high prevention rate. We need effective crime prevention, which prevents farm attacks in the first place. The legal system is equally ineffectual.

The police are investigating some NGO's, including Nkuzi Development Association, regarding the involvement of NGO's in fostering divisions, labour disputes, and hatred between farmers and their workers. Especially foreigners have nothing to lose.

Because of cultural differences it is easier for someone with an African culture to accept socialism, than for someone from a European / Western culture. This is especially the case among tradition-bound and illiterate people living on farms. As a result it is relatively easy to persuade a black person in a rural environment to disrespect private property and consequently engage in theft or robbery.

Prominent politicians have made themselves guilty of hate speech. There is an element of racism involved in the attacks - something the Committee has to look at. This element of racism in farm attacks is usually revealed in court cases. Even the media contribute in this propaganda campaign against farmers.

The TAU is satisfied with CIAC and NOCOC statistics. The TAU does not verify any of the statistics. There is some concern, however, that the definition could be changed and that there could be an undercount in the number of attacks.

#### **National African Farmers Union (NAFU): Mr M. Mothabela**

Mr Mokela Mothabela, the Acting Chief Executive Officer of the National African Farmers' Union (NAFU), made submissions to the Committee on 2001-07-23.

NAFU formed in 1991 as an agricultural committee of the National African Federated Chamber of Commerce (NAFCOC). NAFU is a politically non-aligned body for farmers - mainly subsistence farmers from the former homelands. It is represented in the whole country, except the Western Cape. They only have contact persons in the Northern Cape. There are not many white members, but there are a few white members in Gauteng and KwaZulu-Natal. NAFU is affiliated to Kwanalu.

NAFU is a federal organisation. Farmers form their local commodity groups. These groups form regions and provinces. The provinces then affiliate to NAFU. In 1998 there were 45 000 NAFU members. Because NAFU cannot not provide all the services which farmers need, NAFU membership is decreasing. In 1999 NAFU had in excess of 20 000 members, but of these some have not paid membership dues, and are consequently no longer members. The problem is that many members are illiterate, many being rural, former homeland people.

NAFU has differences of opinion with Agri SA about the land issue and development:

*The Land Issue:* When you sell land you have to take into account the productive value of the land and not the market value. Productive value is less than the market value - and affordable to the State. The supply and demand for land should not determine the price. Agri SA disagrees and argues that land should be valued at its market value.

*Development.* Black people should come out of the communal areas and develop independently and be exposed to market forces like all farmers. Blacks who cannot farm commercially, for example, should get out of farming. There should be no subsistence farmers - people farm on a subsistence basis only because of disadvantaged circumstances and structural problems.

NAFU members have been attacked on smallholdings in Gauteng. These are generally people who live, but do not work, on the smallholdings. No attacks on NAFU members occurred outside of Gauteng. Black farmers, however, also try to carry guns on their farms.

### **Mangete Landowners' Association: Ms P.P. Dunn**

Ms Pat Dunn represents the Mangete Landowners' Association. The Association formed in 1994, and represents the farming community in the Mangete area, irrespective of whether they farm or not. The Mangete area is about 2 700 hectares (the size of one commercial sugar farm), which is divided into allotments of 40 hectares. There are 63 operative farms.

Most of the farmers in Mangete are descendants of John Dunn. In 1820 John Dunn's father came from Scotland as a settler and married his wife, who was also a British settler. John was born in Natal in 1834 and he became an elephant hunter. When he was 16 his father was killed, and John and the daughter of one of the employees (Catherine) left for the Tugela River, where he worked as a hunter and trader. King Hletshwayo met with Dunn and asked him to become his adviser and interpreter, and act as liaison officer with the British. Dunn was later made a chief. He married 48 women and sired 148 children. His main home was in Mangete, where he died in 1895.

In 1902 the Delimitations Commission was instituted by the Colonial Government. This Commission proclaimed several reserves, of which 'Reserve 7' was given to the Dunn offspring. Dunn's *indunas* were appointed as chiefs of the reserve. A friend of Dunn, a Tonga, was appointed as *induna* of Reserve 8. In 1934 the John Dunn Distribution Act was promulgated. A new reserve, named 'Remainder of Reserve 7' was established, from which the Dunns were removed and replaced by 'non-Dunns'. The Act was supposed to distribute title deeds to the Dunn family, but this was not done because of the outbreak of the Second World war. In 1976 the inhabitants of Mangete were removed. The descendants of the *induna* of Reserve 8, who were not related to the Dunns, transferred to State land.

Between 1900 and 1930 there existed much friction between the Dunns and the non-Dunns, regarding squatting and cattle. In 1993 the present chief, Motabe, who is a descendant of Hlatshwayo, started invasions onto the land from which they had been removed. The invaders filed a land claim in terms of the new legislation. By 1995 there were about 1000 squatting units in Mangete, which by now have increased to many more. Unemployment and crime are rife in the area, and around Mangete there exists a high level of political violence.

In 2001 about 90% of Ms Dunn's farm was burnt down. Racist remarks are made about her and she is called an '*impimpi* of the Coloureds'. Because of arson and sabotage she has never had a full crop production. She also receives numerous threatening phone calls, emanating from the squatter community. Just before the commencement of the harvesting season (April and May) arson attacks are carried out on her land. Over the last year 12 productive farms have been burnt down and a further 11 farms affected adversely.

The police have never been able to arrest anyone. During the last arson incident the police arrived, but remained in their vehicles and did not seem to do an investigation. Many of Metaba's affiliates are attached to the local police station in Mangete.

Most of the problems are caused by the 'opportunistic squatters'. The police are willing to remove them, but Metaba wants them to stay within the Mangete area. Because of limited funds it is difficult to install security systems in the farmhouses. Most farms have telephones, but the regular theft of copper wire puts land line phones out of order for days at a time. All homesteads have burglar bars. Squatters also block the roads to prevent cane from the farms going to the mill. The police have then to be called to remove them.

Since the SANDF moved into the area the security situation has stabilised. Unfortunately the army was moved out again to address more serious situations, and a few days later the farm was burnt down again. The SANDF has since returned and they now conduct frequent patrols of the area.

On the Natal South Coast smaller communities, where white settlers married black women, experience similar problems. Mangete, however, is the largest 'black-on-black' land claim in South Africa. A large part of Mangete (10 of the 36 farms) does not belong to descendants of the Dunn family any more. Four black and two Indian farmers have bought land in Mangete. Conflict will be resolved if the squatters are removed and the owners have titles to their land. The opportunistic squatters are the main problem. They are also in conflict with the claimants.

**Action: Stop Farm Attacks / Agricultural Employers' Association: Mr W. Weber**

Mr Werner Weber is Chairperson of the Agricultural Employer's Association, as well as of Action: Stop Farm Attacks. He made a submission to the Committee on 2001-08-21.

*Agricultural Employers' Association*

The Agricultural Employers' Association was formed in the late 1980's. It is a national organisation with about 6 000 members. 99% of these belong to either TAU or Agri SA. In the past labour matters were dealt with on the farms as there was no labour legislation dealing with farm workers. With the introduction of such legislation the agricultural sector supported this, because of its close ties with the Government at the time.

Labour matters can become land matters, which can become security matters. Members asked the Association to do something about farm attacks. Weber suggested a petition campaign to unify people in support of the Association's plea that something should be done about farm attacks, and also to put pressure on the Government by making the international community aware of farm attacks. They succeeded, as farm attacks now enjoy wide media coverage. More than 20 organisations supported the petition, including the PAC caucus, which also signed the petition. Other parties did not support the petition, as farm attacks are almost exclusively perpetrated by blacks on whites, and they were concerned with losing black votes.

*Action: Stop Farm Attacks (ASFA)*

Action Stop Farm Attacks was formed in May 2000. They conducted a campaign, gathering more than 400 000 signatures for a petition, which was intended for the international community. As a matter of good protocol ASFA decided to approach the Government first, but this was declined. ASFA wrote letters to the President and the Ministers of Agriculture and of Safety and Security, but they refused to meet to discuss the matter of farm attacks, without giving reasons. Previous meetings between the President, Ministers and organised agriculture had excluded ASFA. The Government has only met with Agri SA, and not the TAU or the Agricultural Employers' Association. Organised agriculture consists of local farmers associations, district agricultural unions, provincial agricultural unions, and the national union. Some farmers also belong to, say, Nampo, but 99% belong to either Agri SA or the TAU. Agri SA and the TAU represent virtually all commercial farmers in SA.

Action Stop Farm Attacks is an umbrella body for farmers who are concerned about farm attacks. There is an agreement with Agri SA and the TAU that in matters of farm attacks there is only one spokesman, viz. the Chairman of Action Stop Farm Attacks (i.e. Weber). The National African Farmers Union has been approached, but did not want to join ASFA. However, as most farm attack victims are white, ASFA represents virtually all interested persons in respect of farm attacks.

*Why farm attacks are unique:*

They involve almost exclusively black on white violence.

In virtually all cases one or more of the assailants have never seen their victim before. Only about 5% of farm attacks are carried out by farm labourers on their bosses, therefore the motive cannot be revenge in the vast majority of cases.

In recent cases nothing has been taken.

Culprits in most cases wait for hours for the farmer to return and then rape his wife and kill the farmer.

Culprits shoot on sight, without reason.

There is a high degree of violence.

The motives for farm attacks lie in hatred for whites, hatred for farmers, and to drive whites off the land. A great percentage of farm attacks are motivated by ordinary crime. Mr Werner estimates that 50% of farm attacks are motivated by 'ordinary crime'. But race, political motivation, hatred for farmers and the inflammatory statements of farmers play a role in the motivation. There could be another distinctive generator which motivates people to commit 'ordinary crimes' on farms: it has become fashionable to do so. Minister Mabona, the Mpumalanga MEC for Safety and Security, has made inflammatory statements, and the Labour Minister has said that white farmers have to adapt or die.

To stop farm attacks one must uncover the generator, which could be the cause of 10% of the attacks but which fuels the majority of attacks. If the generator is stopped, most

attacks (both criminally and non-criminally motivated) will stop.

### *SAPS indifference*

The police go out of their way to argue that farm attacks are motivated by ordinary criminality. They do this so that no extraordinary steps need to be taken to counter farm attacks. Investigating officers are not criminologists. They look for victims and perpetrators, and as soon as something is stolen the motive becomes criminal.

Weber is in possession of a copy of a document (which the police deny even exists) whereby people are offered a R2 000 reward per farm attack and defence in court and weapons to commit the attacks. It was published by the 'Black Jacks'.

The ASFA established a commission of inquiry which investigated farm attacks, which has revealed information on 'racially or politically' motivated cases. The ASFA memorandum is in fact the report of the Commission. Dr Chris Jordaan was the Chairman of the Commission.

### *What can be done?*

The President must condemn farm attacks unconditionally, and say that white farmers have a role to play and have a right to their property, and that the Government will combat farm attacks. He should repudiate politicians who encourage hatred against farmers. There should be a series of conciliatory statements and a drive to foster reconciliation.

The farming community should be empowered to defend their lives and their property. For example, there should be curfews with no-go areas on certain portions of the farms at night and over weekends, and it should be a major offence if the curfew is disobeyed.

In Piet Retief and Wakkerstroom farmers were arrested and put in jail. In Wakkerstroom the police killed 21 of one Mr. Greyling's sheep about 10 months ago by stoning them, and they damaged his communication equipment. In the police station there were notices that they did not like the Greyling family. Weber told Amnesty International about it, who released a statement. The police also drove through the township to tell the public that they would arrest Mr Greyling.

Farmers making citizen's arrests are themselves arrested for kidnapping. The farming community are unsure of their rights to self defence. Farmers are not being told of land claims which have been filed against their land. Only a small minority of land claimants actually attack farms.

In the Wakkerstroom area one Mr Gerhard Raabe was killed by his employees as they complained about their working conditions. Thereafter the Transvaal Rural Action Committee (TRAC) said that in cases where farmers are killed, the farm labourers should get the farm. In Greylingstad a farmer was made a low offer for his land. He refused and

he was killed thereafter. Also, one Mr Grobbelaar was murdered in White River in August 2001, and before he died he revealed that the police were behind the attack.

According to the ASFA sponsored Commission of Dr Jordaan, APLA is a major driving force behind farm attacks to drive white farmers off their land to make room for blacks. There are four contingents operating from various areas in S.A., which orchestrate the attacks.

There are TRAC minutes stating that the Greyling and Landman families in the Wakkerstroom areas should be killed. The Greyling family still has an original copy of these minutes.

There have been eight attempts on Weber's own life, and he has been told that the National Intelligence Agency is behind it. Some MPs could be behind some attacks.

## **SUBMISSIONS BY THE SECURITY FORCES**

### **SAPS: Component Operational Coordination: Ass Comm F.J. Burger**

Assistant Commissioner Johan Burger is Head of the Component Operational Co-ordination of the South African Police Service. He is also Chairperson of the Priority Committee on Rural Safety, which is a NOCOC committee. He made submissions to the Committee on 2001-10-17, and he also made a memorandum on sector policing available to the Committee.

#### *Priority Committee on Rural Safety*

The Priority Committee is an inter-departmental committee, mainly supported by the SAPS, the SANDF, and to a lesser extent, the Departments of Justice, Correctional Services and Welfare. With the establishment of the Justice, Crime Prevention and Security Cluster (JCPS) in 2000, the membership of NOCOC were broadened to include about 12 Government departments. NICOC is also included. The Priority Committee members also include representatives of organised agriculture (Agri SA and TAU). NAFU and COSATU were also invited, but they lack the capacity to attend meetings regularly.

In 1997 the Rural Protection Plan was launched. In 1998 a Rural Safety Summit was held, and thereafter the Priority Committee was established.

Initially the Rural Protection Plan was established primarily to protect farmers. Today, the Priority Committee's mandate has broadened to protect and secure the broad farming community. Also, initially the Rural Protection Plan was not responsible for protecting rural communities generally - this was the function of normal policing. The Priority Committee realised that farm attacks cannot be stopped through security force actions alone (there were not enough personnel to blanket rural areas), and the Priority Committee is now thinking of implementing 'sector policing' in the rural areas. The Priority Committee is thus accepting responsibility for increasing the safety of the broader rural community - as this is a prerequisite to successfully combat farm attacks.

In April/May 2001 a task team was appointed by the Priority Committee to look at the Rural Protection Plan in all the provinces. It became apparent that Agri SA and TAU do not represent even 50% of the commercial farmers in the country. There is therefore a problem with implementing the Rural Protection Plan through organised agriculture structures, and this inhibits the effectiveness of the Rural Protection Plan. Many farmers prefer not to be involved in the structures of organised agriculture. Moreover, even many members of organised agriculture are not very active members and neglect to attend meetings. For example, little is understood about the concept of 'home and hearth' protection.

Farmers argue that they have little to gain from being members of organised agricultural

organisations, and that they are running their farms as businesses and thus do not have the time to attend meetings etc.

The SAPS includes farmers and their workers in the definition of 'farm attacks'. But, in most attacks the target is the farmer and his assets. The Rural Priority Committee is mainly concerned with farmers and their workers being attacked by people from outside the farm, and *less* with conflicts between farmers and the workers.

### *Sector policing*

Sector policing should be able to increase the knowledge and involvement of the farming community. Sector policing is in essence the division of a police precinct into smaller and more manageable geographic areas (but quite labour intensive). Sector policing takes a more preventative approach to crime (compared to the present reactive approach, where the one or two available complaints vehicles per police station rush from crime scene to crime scene).

Because of personnel constraints it will not be possible to place permanent staff in all sectors in a station's area. Ideally, each sector should have a 'sector manager' and an 'assistant' (ie two full-time members per sector). Where this is not possible: one full-time member and a reservist; where that is not possible: two reservists specially recruited for sector policing purposes (and with the necessary training).

Members who work in a sector become familiar with the terrain of an area and the people there. Sector police officers must mobilise and organise the whole rural community in their sectors: farm watches, neighbourhood watches. Sector police officers must then create a 'sector crime forum', where all the problems (crimes, causes of crimes) and solutions in that sector are identified, and where it is decided who should take responsibility (the SAPS, farm watches, etc.). Sector police officers then become accountable to their communities via the sector crime forums. They are also more accountable to their superiors - if things go wrong in their sector, then it is they who must answer to that. Sector policing takes community policing down to ground level. Sector police officers liaise with the crime prevention unit at their station.

Revised draft policy on reservists makes provision for a separate category of reservists for rural areas. For example, such reservists would not have to have a standard 10, so that farm workers can also become reservists. Sector policing should give existing reservists a better purpose, as they will be working to specifically safeguard the local community from which they come.

### *Conflict in organised agriculture*

The conflict between Agri SA, TAU and Action: Stop Farm Attacks, and the at times radical views of the latter two organisations, may impede organised agriculture's ability to effectively combat farm attacks because:

If organised agriculture issues conflicting, false or unverified statements, conflict can

be created with the security forces.

Security forces are, at times, portrayed as less than honest, and the SAPS is even accused of working in cahoots with the organisation behind the attacks. This fosters mistrust between security forces and organised agriculture.

AgriSA has to exercise 'damage control' when Action Stop Farm Attacks issues statements on AgriSA' behalf - thus sapping Agri SA' energies.

### *SAPS issues*

The SAPS has serious problems, such as a functional illiteracy of about 30%, unprofessional or lazy members, etc. These problems affect the SAPS generally, and do not specifically apply to the investigation of farm attacks only. Furthermore, the Police Service is also under pressure due to restructuring, lack of resources, and poorly trained personnel. At the same time the SAPS has to deal with exceptionally high crime levels.

At a typical police station there is only one vehicle available to attend to complaints. In bigger cities this might be supplemented by the Flying Squad - for certain serious crimes. At some stations there might also be 1 or 2 'crime prevention' vehicles.

SAPS has got a legal opinion from its Legal Services Component about the rights, duties and responsibilities of the police in respect of illegal evictions. This opinion and an instruction to uphold the law has been distributed to the lowest levels of the SAPS.

### *Allegations against security forces*

There is no basis for alleging that the security forces are hiding the truth about farm attacks, as is alleged by sections of organised agriculture. Moreover, Ass. Comm. Burger himself is white Afrikaner and does not have a motive to cover things up to the detriment of the farming community. He has been a police officer for 32 years (including intelligence and operational experience) and possesses professional integrity - he also does not have any political affiliations. Also, farming organisations have friends in the police who would provide them with evidence of such a conspiracy.

In some cases there may be an underlying political motive connected to South Africa's past, and the disappointment experienced by black youths, which could indirectly lead them to commit crimes against certain people - such as white farmers. This is possible but very difficult to prove. There is no evidence to prove that farm attacks are politically motivated. This does not mean that the attacks are not politically motivated - but there is no evidence to prove this. Until we have proof we have to accept the facts which indicate that attacks are motivated by crime.

*Black Jacks:* There was an allegation by a farm worker that he was approached in Morgenzon in a shebeen on 2000-03-20, by an organisation called Black Jacks, who allegedly would pay for every farm murder. A farmer then told the police, and Crime

Intelligence compiled a report, asking that this be investigated further. The original report of the incident leaked to Mr. Werner Weber, and he claimed that the police have evidence of an organisation behind the farm attacks.

The Provincial Head of Crime Prevention in Mpumalanga then wrote a report on 2000-04-06, stating that the witness fabricated the allegations. The vehicle registration numbers of the alleged Black Jacks was false, and other people who were allegedly approached by the Black Jacks denied this. Moreover, the Black Jacks never surfaced again.

*Training video:* On 2001-01-18 Prof Neels Moolman received a cellphone call from someone, claiming that the police in Britz had arrested 6 farm attack suspects and that the suspects were in possession of a training video of how to execute farm attacks. He brought this to the notice of Ass. Comm. Burger. The Britz police, however, knew nothing about such a training video, nor did the Deputy Provincial Commissioner. The Serious and Violent Crimes Unit also followed up on the allegation and found nothing. On 2001-03-29, however, Mr. Weber held an international press conference on behalf of Action: Stop Farm Attacks, giving as proof of politically motivated attacks the 'Black Jacks' and the alleged 'training video'.

*Wakkerstroom area:* Mpumalanga has serious problems with farm attacks, and especially the Wakkerstroom area is problematic. The National Land Committee (to which the Mpumalanga Land Tenant's Committee is affiliated) has a specific interest in this area, which seems strange, and their role in Mpumalanga warrants further investigation..

There are rumours that the local commando is engaged in vigilante activities. (The commando is made up primarily of local farmers.) The rumours are, for example, that commando members shot two labourers. In fact, they were shot by members of the SAPS, who were later acquitted in a court of law.

The people went to Mr. Steve Mabona (Mpumalanga MEC for Security) claiming that the SAPS were not acting against farmers who assault their workers. Mabona then instructed the police to arrest a particular farmer. He was arrested and had to stay in custody over the weekend. Most of the charges alleged against the farmer had already been withdrawn. The way the police arrived on the farm was almost an 'invasion' and caused much unhappiness amongst the farmers. Ass. Comm. Burger cannot comment on the allegation that the farmer's property (21 sheep) were killed by the police.

*Comments on alleged uniqueness of farm attacks*

*Virtually all perpetrators of farm attacks are black.* In almost every single case of serious and violent crimes throughout SA (and not only in the context of farm attacks) the perpetrators are young black males, while victims come from all communities and both gender groups. Young black males are not over-represented as farm attackers compared to other violent criminals.

*Level of violence higher in context of farm attacks.* This cannot be proved. House-

robberies in the cities can also be very violent, e.g. victims are burnt with an iron, victims assaulted and raped for hours in their own homes, victims are urinated on. Brutality today is frequently involved in a housebreaking where victims are at home. In the rural areas, perpetrators have more time. They thus have the luxury to take their time and to make more noise in their reign of terror.

*Culprits wait for victims to return and then attack them without taking anything.* This happens in very isolated cases only. There are many reasons which could explain this: the attackers might hear or imagine a noise and flee. In the overwhelming majority of cases, however, something is robbed.

By waiting for the owners to return, the perpetrators are in the most advantageous position:

Once the owners leave the farm they are likely to be gone for some time - this gives the culprits enough time to enter the home and have a good look around.

As the owners return they are at their most vulnerable as they walk into an ambush. (If the perpetrators attack a home with the owners inside, the owners have a better chance of fighting back from the cover of their home and the owners might have the time to phone for help or activate an alarm. Also, the perpetrators do not know the layout of the inside of the home.)

With the owners present (once they have returned) perpetrators have access to safes and the farmer's vehicle, plus the keys are also available.

#### *The Rural Protection Plan*

The Commandos are vital to the success of the Rural Protection Plan - they are usually the first at a farm attack scene. The police's main contribution is to do the investigation, and to ensure that the law is upheld in the State's reaction to a farm attack.

There is a need for a good communication strategy involving all the role players, for which a draft has already been developed.

Organised agriculture must stop their quarrels and co-operate more fully.

There are deficiencies in the security forces, due to a large extent to the on-going process of restructuring and transforming the security forces (a process which seems never ending). A significant number of members are functionally illiterate. Junior officers are also promoted to senior command positions, causing a lot of unhappiness among officers under their command. The adult education initiatives are too slow in making an impact. Both the SAPS and the SANDF need to get their house in order - more should be done to fix the internal problems of the security forces.

Lack of resources available to the security forces.

The issue of rural safety must involve much more than only security force actions. Moreover, rural crime should be seen in the context of crime generally in SA.

### *History of farm attacks*

The phenomenon of farm attacks in SA is a relatively recent one. In the early and middle 1980s there was a complete lack of fear among farmers (except in relation to 'terrorist' attacks in certain isolated areas). Since the early 1990s there has been a significant increase in farm attacks. Also, the media coverage of the attacks has resulted in incredible fear among farmers. Most farmers now walk around armed and have radios and emergency procedures. There has also been a significant change in farmers' way of life. Some farmers no longer go to church on Sundays and they don't go out at night. Many spend large sums of money on security measures.

The increase in crime against farms is part of a national trend of an increase in crime. There has also been a removal of laws which restricted peoples' movements, and a general opening up of society. The media - by giving much coverage of attacks, by telling the public what is stolen during attacks, how poorly the police reacted to the attacks, how little the Government is doing, and how the culprits accessed the farmsteads - in essence make farms sound like easy targets where there is much to rob. Unwittingly farms are advertised as convenient targets.

### **SAPS: Crime Information Analysis Centre: Supt J.C. Strauss**

Superintendent 'JC' Strauss is attached to the Crime Information Analysis Centre of the SAPS. He made formal submissions to the Committee on 2001-08-20 and on 2002-02-07, and had numerous other interviews and informal discussions with the Committee. He also made a large number of CIAC publications available to the Committee.

He describes the CIAC as the custodian of police statistics. The different components are the

- Production Unit, dealing with crime statistics
- Organised Crime Component, dealing with crime threat analysis, and
- General Research Component, which deals with crime tendencies.

There is no specific crime code for farm attacks. If a farm is attacked, it is registered under the crime(s) that occurred. Thus farm attack statistics cannot be drawn from the system but have to be collected 'by hand'. The CIAC is reliant on local police officers to inform them of farm attacks - as per instruction of the National Commissioner. Local police submit incident reports which are then evaluated by the CIAC, National Operational Coordinating Committee, Agri SA, Crime Intelligence Management Centre and the National Intelligence Agency (which attends sporadically). The CIMC has a generic desk that deals, inter alia, with farm attacks. CIMC feeds its information to the CIAC, and the CIAC analyses it.

The instruction to collect farm attack statistics was given during the last quarter of 1997. The CIAC then collected the statistics retroactively from the beginning of 1997. Presently there is a big reporting problem in KwaZulu-Natal and Gauteng. These two provinces are going counter to the national trend, and since the number of the attacks in these two provinces make up a large proportion of all attacks, they have caused the levelling off of the national trends. In Strauss's view there has actually not been a decrease in farm attacks in Gauteng and KwaZulu-Natal during 2001, but rather an underreporting. The CIAC has become aware of numerous farm attacks in KZN, which are never reported to CIAC by the province's CIAC office. Gauteng is also underreporting and, to a lesser extent, the Northern Province. The best provinces in terms of reporting are the Eastern Cape and Mpumalanga. There is pressure on the police to reduce farm attacks, and this may tempt them to underreport farm attacks.

There is a rapid changeover of personnel at stations with the result that the farm attack instructions are not always passed on to the new personnel. Provincial headquarters may also change their daily reporting requirements, and some people then confuse this with the standing instruction regarding farm attacks.

There was a big change in recorded attacks between 1997 and 1998. There might have been an actual increase, but many attacks on smallholdings in Gauteng were not recorded in 1997. The definition has been the same since the beginning, but it seems there was an underreporting in especially smallholding attacks during 1997.

Previously there had been daily crime bulletins, which recorded persons attacked on their own premises: some farm attack statistics could be gleaned from this - but they are unreliable.

The SAPS is in the process of establishing information managers at every police station: first at priority stations, and then eventually at all stations. This will significantly improve the accuracy of the statistics.

*Ad hoc* research by CIAC indicates that most murders are linked to alcohol or drug abuse, domestic violence and inter-social conflict. Others murders (farms, taxis, political) are a small proportion of the total. It is impossible to say which categories of murders are decreasing in South Africa. The Mpumalanga CIAC office took a random sample of 500 murder dockets: 90% occurred in a shebeen or within 50m of a shebeen. According to the Western Cape office, most murders occur on a Saturday. If an outsider attacks a farm worker, it is recorded as a farm attack.

The CIAC has looked at farm attacks at certain dates and looked at how many resulted in prosecutions, convictions, etc. In provinces such as the North-West, Northern Province (Limpopo) and the Free State, virtually all attackers are caught and tough sentences are given, but this does not seem to act as a deterrence.

The incident reports sent to CIAC make provision for investigating officers to fill in the believed motive. But this is not done well. Theoretically it's possible to get a print out of all farm attacks registered by the CIAC where the motive has been registered as 'unknown' or 'political'. CIAC has sent out requests to stations to look at certain cases in greater detail, but the response has been very poor.

There is no evidence of an organised campaign against farmers. In a Magaliesberg case - where two farmers were murdered while going to the aid of a neighbour - all four attackers were members of the same Xhosa-based union from the Eastern Cape, but that is all. In some cases there do seem to be 'battle indicators'. The CIAC has unconfirmed reports that the National Land Committee and the Mpumalanga National Tenants Committee are planning to murder and intimidate farmers. There are also rumours of hit squads, but there is nothing substantial.

Strauss believes that one should not look for an organisation that is behind attacks - it is a waste of time. One should rather bear in mind that there are a lot of unemployed people who will never get work, and it is easy for such people to get involved in crime. One also need to look at climate created which is conducive for attacks. There is tendency to overemphasise differences. On television farmers are portrayed quite negatively and prominent people say negative things about farmers. Thus, one has people ready to commit crimes, and then there is a climate created which makes the attacks on farms acceptable.

It is very difficult to trace the cases given to the Committee by the agricultural unions for special investigation. It is impossible to trace a case on the Crime Administration System database with the victims' particulars only. One needs details on the accused. It is also

very difficult to get cases from before 1998. A further difficulty is that the integrity of the data entered into the CAS at local level is flawed, which makes it very difficult to trace certain cases on CAS, where the information on the case is incomplete.

There is a serious staff problem at station level. The Serious and Violence Crimes Unit in Middelburg has 26 employees, of which 16 are functional members. The 16 deal with all attacks on police, cash-in-transit heists, bank robberies, car hijackings and farm attacks. In January 2002, they received 101 cases to investigate, in addition to 500 cases already on hand. They only give themselves one week to investigate a case, and thereafter they do not have the time to continue with the investigation. When they do catch suspects, they only have the time to get a conviction; they do not have the time to look for underlying motives for the crime.

Strauss has visited scenes where there was strong evidence of 'battle indicators'. A few farm attacks have been prevented through forewarning by battle indicators. It seems, however, that the purpose of indicators is not to direct attackers to the farm, but rather to act as an on-off switch, indicating whether an attack should go ahead.

#### **SAPS: Crime Information Analysis Centre: Supt. R. Pretorius**

The Committee requested the Crime Information Management Centre to give its views on two matters, namely the motives for farm attacks, and whether there were information available that farm attacks were part of an organised campaign. A working group, consisting of Supt R. Pretorius (from CIMC) and Sup J.C. Strauss (from CIAC), reported back to the Committee on 2001-09-26. They also submitted a written report to the Committee, entitled 'Attacks on members of the farming community (including smallholdings)'.

In their submission, the working group point out that NOCOC published a report as long ago as 1997-12-05, in which the two matters were addressed specifically. This led to the appointment of Assistant Commissioner Suiker Britz and Director Errol Seyesi to investigate the matter further. The so-called 'Britz Report' was then published on 1998-08-13, in which it was found that there was irrefutable evidence that the motive for approximately 99% of farm attacks is common criminality, robbery being the primary incentive, and that there was no evidence that sinister forces were responsible for the attacks.

As a result of the Committee's request, all national intelligence structures were tasked to scrutinise their databases to determine the latest trends, and the same conclusions were reached as in the two reports mentioned above. In most cases money, firearms, vehicles, jewellery, television sets, etc, are robbed. Furthermore, the working group could find no substantial evidence of the involvement of either organised crime or political groups in farm attacks. It is possible that there could be indirect or additional political motives in some cases.

Present indications are that robbery is still the primary motive, while a small proportion of attacks have to do with retaliation or revenge. Some of the contributory factors are:

Farmers are known or perceived to have large sums of cash, firearms, etc.

Homesteads are relatively isolated and sometimes poorly secured.

Media coverage may indicate potential weaknesses on farms.

The criminal justice system is perceived as being dysfunctional.

Increased security measures by farmers have caused strain on relationships with workers and visitors.

The perception of political involvement in farm attacks might be the result of the findings by the Truth and Reconciliation Commission that APLA attacks against farmers before 1994 had been politically motivated. The perception is sometimes strengthened by political slogans. In some cases 'battle indicators' have been found, but there is not intelligence or evidence that persons with a military training deliberately planned it.

In some exceptional cases the perpetrators drove long distances to carry out a farm attack. The cases where the attackers waited for the farmer to return, are not unique - there have been cases in urban areas where burglars waited for the homeowners to return, and then attacked them. It is generally agreed that the degree of violence in farm attacks is excessive, but in general farm attacks are not necessarily more violent than violent crime in any other areas.

The Mpumalanga War Veterans' Association was formed a few weeks ago with similar aims as the Zimbabwe war veterans. This - especially in some areas such as the Wakkerstroom area- could in future lead to Zimbabwe-style farm invasions. The PAC and the National Land Committee (and its 9 affiliates) are involved in land occupations in one way or another.

### **SAPS: Serious and Violent Crime Unit: Supt J.H. Vreugdenburg**

Superintendent Tollie Vreugdenburg is the Head of the Serious and Violent Crime Unit in the Bushveld area. He prepared a written submission and addressed the Committee on 2001-09-27. He also made available to the Committee a lecture on the handling of farm attacks at the Area Operational Coordinating Committee level, entitled 'Aanvalle op plase en landbouhoewes'.

His submission deals with the motives for farm attacks, victims and perpetrators. It also highlights what could be termed 'best practice' with regard to farm attacks. The submission is based on the knowledge and expertise gleaned from investigating farm attacks over the last number of years. In his submission Vreugdenburg emphasises that all inhabitants of the farm may be victims of farm attacks, although the majority are white males.

Regarding the motive for farm attacks Vreugdenburg touches on three factors, namely robbery, revenge and political issues. This is further elaborated upon in the

abovementioned lecture. In his view the overwhelming majority of farm attacks are nothing more than robbery. Farms and smallholdings are regarded as soft targets. The risk factors include the presence of farm shops and stalls, the financial status of the farmer, money or firearms on the farm, whether the farm is isolated or near a public road, the lack of security measures, etc.

Factors giving rise to revenge attacks are salary disputes, bad treatment of the workers, evictions and dismissal of workers. Political attacks may be the result of land reform, hate speech by political figures and even political parties.

The technique of investigating farm attacks is described in some detail. The biggest problem is to coordinate the functions of the stakeholders. This is done by establishing a Joint Operations Centre (JOC). In case of a farm attack the SAPS and the SANDF commandos will be notified first. A contingency plan is then set into operation, the idea being to inform all the stakeholders, but also to secure the crime scene. Various other stakeholders come into play, such the Serious and Violent Crimes Unit, Local Criminal Record Centre, Forensic Science Laboratory, Ballistics Unit, Dog Unit, Trackers. The media in the area is also alerted if the suspects are at large.

During 1996 and 1997 the Bushveld area was subjected to a spate of farm attacks. The number of attacks in the area has decreased considerably, however, and Vreugdenburg believes that their methodical way of working has contributed to this success.

**SANDF: Chief Joint Operations: Col B. Schoeman, Lt Col D. C. Moore and Lt Col B. Boshoff**

Col Barry Schoeman, Senior Staff Officer at Chief Joint Operations of the SANDF, and his colleagues, Lt Col Moore and Lt Col Boshoff, jointly made a submission to the Committee on 2001-06-19. Col Schoeman also submitted a briefing document titled 'Farm Attacks: Presentation to the Farm Attack Investigation Commission'. Col Schoeman presented a follow-up submission on 2001-07-04, and also had several informal discussions with the Committee.

The submission looks at causal factors and battle indicators, and does not deal with recommendations on how farmers can protect their environment better.

Because of the way the Rural Protection Plan is conducted, it focuses on the commercial farming community, ignoring subsistence farmers and traditional farmers. Once sector policing is in place the Rural Protection Plan will become redundant.

The farming community has a responsibility to protect themselves and to develop a 'protective shield'. Many causal factors (e.g. socio-economic issues) hamper the effective development of protective shields.

The security forces cannot address the causal factors and motives of crime, but can

reduce 'opportunity' for crime to occur.

#### *Statistics, trends and related issues*

All pre-1997 statistics, and to a certain extent even 1997 statistics, are suspect. The present definition of farm attacks was developed at the end of 1997. The 1997 statistics were then reworked in terms of the definition. Even the figures for the first 4 months of 1998 are a bit suspect due to discrepancies. Pre-1997 statistics exclude most Gauteng smallholdings (depending on the investigating officer and station commissioner in charge of investigation). Some KwaZulu-Natal smallholdings, and in the Western Cape the 'estates' (e.g. wine estates) were excluded. The pre May 1998 statistics therefore probably undercount the real extent of farm and smallholding attacks.

The statistics used by Col Schoeman are the same as NOCOC's, which is used by Defence Intelligence, SAPS Intelligence, CIAC and Agri SA. NIA would also broadly agree with these statistics. Amongst these stakeholders there is general agreement as to which incidents constitute 'smallholding attacks'. Smallholdings used primarily for business purposes are excluded from statistics, e.g. smallholdings with full-time businesses on them.

The police stations send incidents reports when they think there has been a 'farm attack'. The joint committee (CIAC, NOCOC, etc.) looks at it and then decides whether it constitutes a 'farm attack'. The commandos pick up an additional 10% of attacks, which are then also referred to the Committee for inclusion in the final statistics. On average there are two problematic cases a month.

Smallholding areas differ: some smallholdings are enclaves in farming areas and the battle indicators are the same in respect of such smallholdings as they are of farms. However, other smallholdings are not to be seen in the context of farm attacks. It is difficult to separate the two types of smallholdings, because it is difficult to distinguish between different types of smallholdings.

#### *Risk factors*

Col Schoeman's tentative research has revealed that 91% of 1999 murders were social-fabric type murders; the rest were part of other violent crimes such as robbery, taxi violence, gang-violence, cash-in-transit robberies, housebreaking and inter-group violence. Only 0.56% of the total murders were of farmers and farmers' workers (i.e. farm attacks). In contrast to this, 3.1% of all murders are related to taxi-violence.

High risk farm attack provinces, which account for 70% of cases, are Gauteng, Mpumalanga, KwaZulu-Natal. Then follow the Limpopo Province, Free State and Eastern Cape (25%). The low risk provinces are North-West, Northern Cape and Western Cape (5%). In 2000, Northern Cape and Free State became low-risk provinces, and the North-West a medium-risk province (from low-risk). During the period January to May 2001, Gauteng and Mpumalanga were the only high-risk provinces accounting for 55% of all attacks.

There is some correlation between high levels of crime in an area (especially violent crime) and farm attacks. After high publicity media campaigns there are marked short-term increases in attacks, possibly because farmers are pictured as soft targets. This is an issue which requires further research.

### *Trends*

Farm attacks tend to be below average in January and December; and a bit higher than the average in May. However, in 2001 May was lower than average but June 2001 higher than average. Some farmers argue that they are away in December and January and then cannot be attacked; others say that during that period farmers' families are on the farm and the greater number of people create a greater risk for the attackers.

The absolute number of attacks and murders is decreasing, but the proportion of attacks resulting in a murder or injury is increasing. In 2000 there was a 48.5% chance of being injured, and 14% chance of being murdered. In January to May 2001 the risk for injuries was 52.7% and for murder 17.5%. The percentage is calculated by taking into account the actual number of potential victims on the attacked farm.

During the period 1998-2000 the Western Cape and North West saw an increase in the number of attacks, while KwaZulu-Natal and Free State experienced a decrease. During January to May 2001, however, KwaZulu-Natal experienced a significant drop, while Mpumalanga had a significant increase.

### *Number of farmers*

There are between 60 000 and 80 000 commercial farmers in S.A. This excludes subsistence farmers. Of Agri SA's members about 30 000 are not white. Among farmers' unions there is some duplication of membership.

Farmers, including their labourers and families living on farms, but not smallholders, constituted 6.05% of the total population in 1999, but:

- only 1.7% of crimes were committed against farmers (excluding smallholders) and labourers and their families;
- 0.56% of murders occur on farms and smallholdings; and
- 0.98% of assaults occur on farms and smallholdings.

### *Victims*

Approximately 60% of victims of farm attacks are farmers (or their families) and 40% farm workers (or their families). About half (48%) of the victims of farm attacks (including those not involving physical violence) are black, coloured and Indian. These figures are calculated from case-studies. However, a much higher percentage of murder victims are white and male. The reason may be that some white farmers resist more and tend to be verbally more abusive.. A high proportion of women are raped. That proportion decreased during 2000 but is on the increase again.

### *Motives*

The Committee should look at possible 'racial motives' in attacks. This is relevant, as white, male farmers are more likely to be murdered.

Col. Schoeman has not done any scientific research, but there seems to be a higher level or degree of violence used in violent crime in urban areas, as compared to violent crime on farms.

From Col. Schoeman's research, revenge seems to be the motive in 12% to 13% of farm attacks. In 1999, in 26% of farm attacks nothing was stolen. Taking these farm attacks only (i.e. the 'motiveless' ones), then 38% (of the 26%) had farm claims against them. There is therefore quite a strong correlation. One must look at the 2000 land claim figures, however, as the situation has changed since 1999. It is difficult to get figures from the Land Claims Commission. Of all farm attacks in 1999, only 3.5% involved farms against which there were land claims and nothing was taken. Mpumalanga has the greatest proportion of land claims.

In Col. Schoeman's view, no real land invasions have occurred in South Africa yet - only squatting. Squatting occurs where only a small portion of farm is occupied. Land invasion is where the whole farm is occupied and the owner is prevented from using the land. In the Wakkerstroom area there is a risk that squatting can escalate into land invasions - there are political motives there.

Fifty-six sites where farm attacks were carried out were examined by the SANDF and many of the so-called battle indicators were identified. These are signals used by the perpetrators to identify and select farms. In addition, the battle indicators are used to inform perpetrators whether or not an attack will still be carried out. Consequently, the SANDF has identified 6 types of battle indicators, namely attention drawers, confirmation signs, direction indicators, target indicators, on-off switch indicators and on-off switches. However, the battle indicator theory is rather new and needs further research and verification.

### **SANDF: Chief Joint Operations: Maj L. Moll**

Maj Lucille Moll has been an intelligence officer in the SANDF (previously the SADF) for 20 years. She is attached to Chief Joint Operations, and is tasked to handle the statistics for the NOCOC. She addressed the Committee on 2002-01-10. She also made the NOCOC database on farm attacks available to the Committee.

The NOCOC was established in 1998. Initially it was run mainly by the SANDF personnel, but thereafter more SAPS personnel got involved.

NOCOC has several priority committees. One of them is the Priority Committee on Rural Safety, which also deals with farm attacks. Some priority committees are ad hoc

committees (e.g. census, election); others are more permanent. The other priority crimes are taxi violence, gang violence, bank robberies and cash-in-transit heists. Maj. Moll and her staff compile daily joint situation reports on, inter alia, rural safety and the other priority crimes. They also compile and maintain databases of all the priority crimes, including farm attacks.

The database on farm attacks started in January 1998. Initially the modus operandi of specific farm attacks was not reported on in detail in the database, but this has improved since 1999. The information for the database comes from the serious crime reports from 6 provinces every day, as well as reports from police stations. They also get information from the media on farm attacks, especially in Gauteng, where police information is not always comprehensive. The media is used mainly to cross-reference official sources. They use the 'media express' service from SAPS, as well as a media report from defence intelligence, which contain extracts from media reports in SA.

Maj. Moll is of the opinion that the farm attack database is 'reasonably complete', with about a 90% accuracy. The provinces of KwaZulu-Natal and Gauteng are problematic. There is likely to be underreporting in these provinces by as much as 50%. They manage to uncover some of these cases through media reports, etc. Mpumalanga is 98% accurate and the Eastern Cape 95%. The database is comprised of operational statistics only, which can thus be changed retrospectively on an on-going basis.

Every Thursday NOCOC has an informal inter-departmental meeting with CIAC, where they compare notes and share information with them. Military intelligence also has a representative. Crime Intelligence works on intelligence, while Maj Möll compiles statistics to plan operations.

#### **NIA: Dr K. Klaasen and Mr B. van Zyl: 2001-09-26**

Dr Keith Klaasen from the National Intelligence Agency, and his colleague Mr. B. van Zyl, addressed the Committee on 2001-09-26.

At the time of the National Intelligence Coordinating Committee reports of December 1997 and August 1998, the phenomenon of farm attacks was high on the Government's agenda. Both reports came to the same conclusion, and since then the NIA has adopted the conclusions made in the reports, and has been looking at the possible consequences of farm attacks, such as instability, the reaction of farmers, etc..

The NICOC is a co-ordinating body, so that different security bodies provide joint reports to the Cabinet. Directors-general and heads of departments such as the SANDF, SAPS, NIA and Foreign Affairs, serve on NICOC. NICOC has smaller working groups, dealing for example with land invasions, right-wing extremism, Muslim extremism, Zimbabwe, etc.. Currently there is no working group on farm attacks, but such a group can again be created if the situation should require this.

NIA has a crime desk which focuses on certain crimes, but not farm attacks.

The intelligence community includes the SAPS intelligence, military intelligence, the National Intelligence Agency, the Secret Service and Foreign Affairs.

## **SUBMISSIONS BY OTHER GOVERNMENT DEPARTMENTS AND NON-GOVERNMENTAL ORGANISATIONS**

### **Centre for the Study of Violence and Reconciliation: Ms Amanda Dissel, Ms L. Mkhondo and Mr K. Ngubeni.**

Amanda Dissel from the Centre for the Study of Violence and Reconciliation made submissions to the Committee on 2001-09-03. She was assisted by Lindiwe Mkhondo and Kindisa Ngubeni. They also handed written submissions to the Committee entitled 'Criminal backgrounds of young offenders'.

The CSVR has been working with young people, who constitute a large sector of the population, for some time now. Forty four percent of the population is under 20 years of age. They are often the most at risk of being perpetrators and victims of crime. The most recent available statistics indicate that 22% of people convicted of crime are under the age of 22 years. Young males are more likely to be convicted of violent crimes. Males under the age of 20 were 3 times more likely to be convicted of robbery than males over 20 years. However, the number of children who commit crime is an unknown quantity. The numbers of juveniles (those younger than 18 years) serving prison sentences has increased by 159% since 1995.

#### *2000 figures*

In May 2000, persons younger than 21 constituted 12% of the total population of convicted prisoners (109 930). More than half of the total number of juveniles in prison of 27 638 are awaiting trial. Adult awaiting trial prisoners, on the other hand, constitute 32% of the total adult prison population. This situation conflicts with constitutional principles and the Convention on the Rights of the Child, which require that children should only be detained as a last resort.

In the general population, 44% of prisoners are convicted of aggressive crimes, 34% of economical crimes, and only 12% of sexual crimes. However, in respect of children, a greater number were convicted of economic crimes (43%) than aggressive crimes (39%). On the other hand, 14% were convicted of sexual crimes and only 0.8% of narcotic related and 2.8% of other crimes.

There have been two projects in regard to young offenders in prison, viz. the *Violent Victims Study* and the *Voice of Young Offenders Project (VOYO)*.,

### *Violent Victims*

During 1993 and 1994 research was done with 200 young offenders in the United Kingdom convicted of serious offences. Similar research was conducted in South Africa in 1998 with 25 young men, and the results compared with the UK study. Their ages ranged from 16 to 22 years. The length of sentences involved ranged from 8 months (for theft) to 47 years for multiple offences, including murder.

The family backgrounds of the 25 inmates varied considerably. Some lived with their parents, some with the mother only. Others had been brought up by aunts, uncles, step-parents or grandparents. The likelihood is that many of those interviewed were not living in their family home at the time of their arrest.

*Abuse:* Some 68% of the respondents had experienced some form of abuse in their lives. 36% of the sample suffered emotional abuse, which was considerably higher than the 28.5% in the British sample. Some 44% considered that they had experienced physical abuse, compared to the 40% in the British study. Some 25% related their activities to their experience of apartheid or political violence.

*Loss:* Children who experience the permanent or semi-permanent loss of a significant figure to whom they are emotionally attached may suffer serious emotional disturbances. In common with acts of abuse, it may cause considerable childhood trauma which, depending on how it is handled, may contribute to later disturbed, aggressive, or violent behaviour. In the Violent Victims study 84% of respondents had experienced loss via bereavement or cessation of contact with a family member. This was considerably higher than that of the 57% in the British study.

**Overview** The mostly violent young offenders who took part in the study had experienced many traumatic experiences in their personal lives. This was frequently coupled with a severe shortage of money for food and clothing. Many described involvement in gangs where there would be leaders encouraging criminal activity. There were numerous instances when reference was made to what can only be described as a culture of violence and crime in order to obtain money to buy clothing and other status objects, or to feed a drug habit.

### *The Voice of Young Offenders*

In this CSVr project young offenders in prison were asked why they thought they had become involved in crime, and what they thought the State, and themselves should do in order to prevent themselves from going back into crime. Participants of the study were 24 young men between the ages of 16 and 20 years old who had been convicted of violent offences. The sentences they were serving ranged from 18 months to 15 years, although the longest actual sentence was 8 years.

Many of these issues of abuse and loss identified in the *Violent Victims* study were confirmed by the participants. They had experienced loss through death or someone

moving, and also the absence of love or caring. Alcoholism of one or more parents was frequently mentioned, and many grew up with grandparents who could not control them.

Poverty was also a factor mentioned by most of the participants. Most of them came from poor households, where it was difficult for the parents to meet the daily living expenses. This meant that if the boys wanted to comply with peer pressure to conform, they often had to steal.

Most of the participants experienced difficulty at school. The feeling was that if you cannot keep up, you either had to leave school, or become engaged in crime - sometimes both. Many indicated that they did not attend school due to the embarrassment of their poverty. Peer pressure also became more insistent at school. The boys got involved with drugs, alcohol and even crime.

The gang scenario for boys in the townships was different from those in the coloured areas. The African boys got involved with groups of boys who committed crime and sometimes they were part of a larger syndicate where they would steal for other people. However, the coloured boys in the study had joined one of the gangs in the township and immediately became involved in high-risk activities. They also got involved in gang fights or crimes.

Guns are easily come by and were mentioned by almost all the boys.

### *Crime path*

Most of the boys began with petty offences while they were at school. This soon escalated, especially once they left school. Most of the boys were involved in crimes of theft, but a few were convicted of crimes of revenge and, in one case, the senseless murder of a passer-by. In most cases, they had committed other crimes as well.

The participants listed some of the factors that led to their crime path. These included the following:

Their crime often begins with petty theft and naughtiness at primary school and intensified in high school.

There is a history of criminal activity prior to arrest and conviction. These previous crimes were not only petty offences, but also more serious ones such as robberies, hijackings and even murder.

Almost all participants have engaged in rape and gender violence.

Drug and alcohol are often used to gain courage for crimes. Crime is also used to feed substance abuse.

They often steal the weapons or buy them with proceeds of another crime.

They become addicted to a criminal life style.

There is a lack of alternatives to crime.

### *Prevention of crime*

The participants were also asked to suggest what should be done to prevent young people from getting involved in crime. These are some of their responses: Parents should become more involved with their children and encourage them, and shelter should be provided for those who come from broken families. Free education and support should be provided. There must be better discipline at school and at home, and children should not be able to buy alcohol and drugs. Workshops should train people to use their skills, and more job opportunities must be created.

Belief in God and cultural values should be nurtured. Recreational and sporting facilities should be available in townships. Young people should be guided in how to select their friends. Some recommended stiffer sentences for offences, while others thought jails should become rehabilitation centres. There should be job creation for ex-offenders, so that they do not go back to crime.

### *Concluding remarks*

Violence among young people in South Africa is an escalating problem. Many juveniles live in the street and crime is the obvious way to survive. There is also much abuse which takes place in the home, and this abuse within the family can be replayed in the larger society.

It is important to look at building resilience among young people who have not yet become involved in crime, but is also important to break the cycle of crime for those young people who have already followed a criminal path. The important areas to focus on are:

- Developing stable emotional relations.
- Developing an ability to actively cope with stress.
- Developing the ability of the child to think about complex realities.
- Developing self esteem and self worth
- Providing positive social support by people outside for the family.
- Promoting pro-social behaviour.
- Developing a sound concept of sexuality.

### **Freedom Front: Mr P.J. Groenewald (MP)**

The Committee received a written submission prepared by the Chief Spokesperson on Safety and Security for the Freedom Front (FF), Mr P.J. Groenewald (MP), on 2001-09-03.

The submission starts off by saying that the FF is extremely concerned about violent crime in South Africa. Afrikaners, in particular, are murdered, tortured and assaulted, especially on farms. While the national murder rate is 61 per 100 000, farmers are being murdered at a rate of 274 per 100 000. The FF therefore welcomes the appointment of the Committee.

Other reports have described farm attacks as merely part of crime in general, also mentioning labour related issues and land disputes. This answer leaves a great many questions unanswered. The FF criticises the Mistry and Dhlamini report 'Perpetrators of farm attacks: An offender profile', on various grounds. The FF also points to the fact that farm attacks are well-planned and outrageously violent. Crime is decreasing but farm attacks are increasing. Farm attacks are inter-racial, and many black shopowners are not robbed. The FF also refers to various specific cases.

The FF point to the unexplained drastic increase in farm attacks, especially between 1997 and 1998, and say that that was especially the case in provinces with strong opposition to the ANC. Furthermore, there is a strong correlation between the incidence of farm attacks and land lost by blacks since 1936.

The FF rejects the allegation that farm attacks are the result of bad relations between farmers and their workers. The reasons for farm attacks are rather the following:

A climate of intolerance. The Government is instrumental in the racial polarisation. This is also encouraged by public statements and slogans, such as 'Kill the Boer, kill the farmer' and 'Everything Whites own, they stole from Blacks'.  
The issue of land reform. This is borne out by the correlation between farm attacks and land lost by blacks since 1936.

Some attacks may have robbery as a motive, but political motives also exist. This is to be found in the racial tension and polarisation, negative perceptions regarding farmers, victimisation of whites, the mutilation of victims' bodies, political statements, and the continuing revolution.

Recommendations made by the FF include a positive program by the President and other politicians to counter the perceptions about white farmers, the speeding up of the land reform process, the improvement of the criminal justice system, the implementation of the Rural Safety Plan in all provinces, tax relief for farmers to improve security and funding for rural safety.

### **Human Rights Commission: Ms B. Pereira and Mr R. Ramphele**

Ms Bronwynne Pereira and Mr R. Ramphele are attached to the Human Rights Commission (HRC), the former to the Advocacy Unit and the latter to the Research Department . They made a joint submission to the Committee on 2001-06-19.

On 11 June 2001 the HRC launched a national inquiry, looking at human rights violations in farming communities. They appointed 9 researchers to do the research from June to August 2001. The HRC will look at everyone who resides within farming communities: there is no specific target group the HRC will be looking at.

The HRC focuses primarily on human rights, whereas the Committee's primary focus is on farm attacks. However, the HRC will also be looking at, *inter alia*:

- safety and security in respect of farming communities;
- whether farm workers and tenants are members of the SANDF Commandos and, if not, why not;
- to what extent the SAPS serves the needs of the whole community;
- the rate of success in investigating and prosecuting farm attackers and those who attack farm workers;
- the extent to which SAPS is able to enforce court orders in farming communities;
- the extent to which the police's Child Protection Units have access to farms and relevant complainants;
- the accessibility of police stations;
- the regularity of police patrols;
- the extent to which farm workers are able to report crimes committed against them;
- the extent to which policy provides for alternative dispute resolution within communities; and
- the extent to which policy and legislative measures are being implemented in farming communities.

### **Land Affairs Department: Ms T. Yates**

Ms. Theresa Yates is Deputy Director: Tenure Reform, in the Department of Land Affairs. She oversees the provincial implementation of the *Land Reform (Labour Tenants) Act* and the *Extension of Security of Tenure Act*. She made submissions to the Committee on 2001-09-26.

*Land legislation*

Ms Yates submits that there has been widespread violation of the land legislation, and that the SAPS and National Prosecuting Authority have failed to act against those responsible. DLA (Department of Land Affairs) also experiences problems at a provincial level, such as lack of co-operation from State institutions. There is a lack of capacity within provincial offices of the DLA, which has prevented the Department from monitoring illegal evictions and collecting proper statistics on the extent of these evictions. The Department only become aware of illegal evictions if a report is made to it by victims and NGOs. The crisis in the Legal Aid Board aggravates the situation in that many lawyers do not want to work on eviction cases.

Work done by DLA fieldworkers and NGOs shows that there is a need to transform police stations, for in the past the police has protected the interests of land owners. Transformed police stations are the exception rather than the rule. There has to be a change in mindset towards tenants and workers on the part of the police and prosecutors. Not only do police officers need more training about relevant legislation, but management need to be held accountable if they fail to uphold certain laws. The same applies to some prosecutors who use their discretion to decline to prosecute certain cases where the law has clearly been broken. The DLA lacks the capacity to follow up such cases.

#### *Definition of farm attacks*

The DLA opposes all attacks on farms and against farmers, but considers that the definition of a farm attack, and the approach to investigating them, has been focused too narrowly on farm owners. Farm attacks need to be seen in, and addressed within, the broader context of a growing cycle of violence throughout South Africa. The DLA wanted to include illegal evictions in the definition of farm attacks, but the proposal was rejected by the NOCOC priority committee on rural safety.

#### *Possible motives for attack*

Provincial DLA officials have spoken directly with people who have been illegally evicted, but there have been no reports that people wanted to revenge themselves against those who had evicted them. However, illegal evictions invariably causes friction in rural areas, and it is necessary to compile statistics to ascertain the extent of the problem.

#### *Illegal occupation of land*

The *Prevention of Illegal Eviction from and Unlawful Occupation of Land Act*, which criminalises the illegal occupation of land, is not administered by the DLA. The Department is not concerned that the illegal occupation of land will become a crisis in the short term, for farmers have legal mechanisms available to them to evict illegal occupiers. The invasion of land was a result of land hunger, which challenged the Government to speed up the redistribution and restitution process.

## **Lawyers for Human Rights: Mr R. Lesabane**

Mr Robert Lesabane is the education co-ordinator for the Lawyers for Human Rights (LHR) in Pretoria. He addressed the Committee on 2001-09-19, and handed over a written submission entitled 'Presentation on farm attacks / Farming community security'.

LHR has offices in seven provinces, the exceptions being Free State and Mpumalanga. Three offices deal directly with farm worker issues, namely Limpopo, Western Cape and North-West Province. LHR works together with the Human Rights Commission, looking at human rights violations in the farming community. LHR is collecting statistics on human rights violations on farms and has been involved in cases regarding evictions.

The LHR is asking the following questions:

Should we look at farm attacks in isolation, or as part of 'rural security'?

Are murders on the farms an isolated phenomenon, separate from murders generally?

Is rural insecurity motivated by political considerations or socio-economic conditions in the rural areas?

Are 'farm murders' simply murders, or are they murders complemented by robbery or rape, or are they related to questions of land ownership?

In the *Pretoria News* of 7 June 2001 Agri Western Cape claims that farm attacks in the Western Cape are motivated by robbery, but in *The Citizen* of 7 June 2001 Agri SA claims farm attacks are motivated by revenge.

Farm attacks cause the following: job losses, negative economic growth, cycles of tension and violence (revenge attacks), erosion of the culture of human life and the erosion of family life (e.g. where parents are murdered).

Given historical imbalances, Government has a role to play to assist farm workers. There consequently needs to be land restitution. However, the process should be fair and there should be compensation. If there is confusion about legislation, such as the Security of Tenure Act, then people need to be educated about the purpose and functioning of legislation. Land issues could be a contributing factor to farm attacks.

The consequences of private property ownership might be the infringement of the human rights of some people. Such infringements can lead to frustrations, which can lead to (violent) action. Education is required so that there is understanding of human rights issues. However, such education can exacerbate frustrations, as farm workers become aware of their rights for the first time. There consequently needs to be a focus on educating farmers as well, so that farmers do not resist their workers' legal rights which, in turn, can lead to resentment.

Farm attacks are a manifestation of problems on farms and are part of the broader crime problem affecting South Africa.

## **National Land Committee: Mr M. Wegerif**

Mr Marc Wegerif is Secretary on the Board of the National Land Committee, and also the Director of the NKUZI Development Commission. He made verbal submissions to the Committee on 2001-06-19, and also handed over a submission entitled 'Cases of assault - human rights violation of farm workers'.

The NLC programme for the last 2 years have been dealing with issues of security of tenure on farms, and it has been working alongside the Human Rights Watch. The NLC works primarily with workers and residents on farms.

The following has emerged from the work of the NLC:

- workers on farms experience various forms of abuse and attacks by farmers and private security companies;
- the debate should be about farm safety rather than farm attacks;
- the Rural Protection Plan is inadequate as it focuses on farmers, ignoring the majority of the rural population;
- there is no involvement of farm workers in the rural Safety Plan; and
- there is abuse of child labour and illegal immigrants on farms.

The definition of farm attacks is flawed. For example, a farm worker attacking a farmer is defined as a 'farm attack', but farmer assaulting a farm worker, or evicting a worker and causing damage to the latter's property in excess of R10 000 is not recorded as a farm attack. (Almost every illegal eviction should be seen as a 'farm attack', as it often involves the destruction of someone's home.) Consequently the definition of 'farm attack' is racist and should be revised.

One therefore needs to look at *farm safety*, and there should be consistency when looking at offences in respect of farm attacks or farm violence. All violence on farms should be looked at in the same way. Abuse against children and illegal immigrants on farms is part of a broader violence committed in farming communities. Such violence - and the movement of unregulated illegal immigrants - does not help the security situation in the country's rural areas. Violence against, or the abuse of, farm workers makes it difficult for the creation of a co-operative security arrangement between farmers and farm workers.

There is a bias in the criminal justice system, which includes the police, prosecutors and magistrates. The justice system gives more attention to white victims and farmers than farm workers or the broader community. The police, for example, are reluctant to get involved and investigate illegal evictions. While there have been numerous illegal evictions, to date only two farmers have been brought to court. White farmers are a sector in society which gets one of the highest levels of service from the justice system.

The justice system's bias must be addressed, otherwise it will be difficult to develop a co-operative relationship between farm workers and the justice system. This bias reinforces the divisions within society. The Rural Protection Plan has continued this bias and has

collected biased statistics which are misleading. This reinforces the perception of organised agriculture that they are victimised, and allows them to sell their agenda that they need Government assistance to protect their privilege.

It would be in the security interests of farmers if they did not oppose Government efforts to empower farm workers, to give them more rights, to unionise them, etc.

On certain issues and disputes the NLC brings farmers and workers together so that disputes can be resolved through negotiations, and this has been successful in most cases.

## **SUBMISSIONS BY INDIVIDUALS**

### **Mr. J. Geldenhuys: Security Consultant**

Mr Koos Geldenhuys is a farmer from Lichtenberg. He is a consultant in security matters and a self-defence expert, and he takes a special interest in the problem of farm attacks. At the request of the Committee he made submissions on 2002-05-03, for which the Committee wishes to express its appreciation.

His ideas are largely reflected in a series of articles on security on farms, which appeared in the *Landbouweekblad* magazine, starting on 2002-03-22. In the chapter on farm security in this Report, very extensive reference is made to those articles, and it would serve no purpose to repeat them here. Although Mr Geldenhuys is also struck by the extreme violence and cruelty of many farm attacks, he himself has found no evidence of an organised drive behind the phenomenon.

### **Dr. C. L. Jordaan: Geo-Strategist Consultant**

Dr Chris Jordaan is a geo-strategist, which involves a multi-disciplinary - economics, political science, military science, public administration - approach to national strategy. He is also a co-author of the book 'Property Rights in South Africa', reviewed elsewhere in the report. He made a presentation to the Committee on 2001-07-23.

In the 1980s he had done research on land reform in certain Latin American countries (Brazil, Argentina, Chile) in the context of liberation struggles which were taking place. He is the co-author of 'Property Rights in South Africa' and was previously the Director of the Centre for Reformed and Contemporary Studies in Pretoria, which has now been disbanded.

#### *Comparisons between Latin America and South Africa*

Although there were similarities, the political and societal structures were different in Latin America and Africa. In Latin America, development was somewhat more

advanced. There were strong movements on that continent to change society and structures of government, and there were both class and racial (connected with class) tensions. There were noticeable class differences, with the 1980s seeing the growth of the middle class in many Latin American countries (e.g. Argentina), but there was still a large, impoverished class of people in these countries. Although the need for land was around cities, farmers were attacked and murdered.

In South Africa, farm attacks had to be seen as a result of the geo-strategic environment, and would continue until certain geo-strategic developments changed - which was connected to perceptions which had been created that people could have land once change occurred (as in Puerto Rico). Revolutionary movements in the context of low-intensity warfare may occupy a kind of moral high ground in that they promise the poor that they will benefit, and 'will get this and that' once they (movements) attain power.

#### *Threat assessment*

One needed to look at risks and probabilities, and to have some insight into the nature of the threat. With regard to farm attacks, how specific was the threat - was it identifiable? How close in space and time was the threat? What would be the consequence of the threat? Were perceptions of the threat amplified by historical circumstances? Who was threatening whom?

Within a geo-strategic environment, farm attacks were based on historical perceptions, linked to Afrocentric (non-commercial, belonging to the community of living, unborn and dead people) and Eurocentric mindsets. However, the Afrocentric view of land only applied to black people up to the early 1990s. If land reform was politicised it evoked much emotion and passion, which was open to exploitation. Perceptions about land and land redistribution remained after 1994, as people were not re-educated, which allowed unscrupulous people to exploit those perceptions for their own reasons. Such perceptions were the most crucial factor in the conflict in which commercial farmers were murdered.

The change of government in 1994 did not change the perception of people, for that took much longer. Thus, race played a role in attacks on white commercial farmers, as certain perceptions of white farmers continued among some segments of society. Criminality was not at the core of some of the farm attacks. In some instances the modus operandi of the attacks was that of a military operation. Within the sea of criminality there was an organised action directed against commercial farmers, seeking to intimidate them and drive them off their land.

In 1994 some 2 269 soldiers had gone AWOL. Over 2 000 trained people, plus handguns and R4s, R5s and AK47s, went missing as well. These people had the training and the weapons to become involved in violent organised crime. Farm attacks were not yet over, for there was a political-psychological environment which allowed the attacks to continue.

Dr Jordaan concluded by offering suggestions for reducing farm attacks:

- The farming community/organised agriculture had to take responsibility for its own security
- The criminal justice system needed to be more effective, making more arrests, securing more convictions, so that people's confidence in CJS would improve.
- The image of the farming community and farm labourers needed improvement.

### **Mr D. Martin**

Mr Deon Martin was referred to the Committee by the Transvaal Agricultural Union as someone with information about the involvement of the PAC in farm attacks. He submitted a memorandum entitled 'Stelselmatige uitmoring van die plaasboere' to the Committee. He made submissions to the Committee at the Leeukop Prison on 2002-04-05.

Mr Martin is 38 years old. He has experience as a policeman, and also in the security industry. He joined the AWB in 1987. In 1993 he and others received orders from higher command to exterminate certain targets who were political activists, which they did. He was arrested on 1994-01-06, together with eight other AWB members. On 1994-06-17 they were convicted of murder and each received four death penalties, which were later commuted.

Mr Martin describes himself as a Boer prisoner of war. While in Leeukop he applied for amnesty but it was refused on the grounds that he had not divulged the whole truth. He is very unhappy about that, since he revealed everything. Martin is presently on a hunger strike, since he was led to believe that he would be released on parole at the end of 2001, but nothing is happening.

He often speaks to other prisoners who are aspiring for amnesty, including members of the PAC. In September or October 2001, while at the prison hospital to see a doctor, he was reading a pamphlet on farm attacks. A member of the PAC saw it and asked him whether he knew where "that thing" (i.e. the farm murders) came from. The PAC member told him that the farm murders were organized from a house in Boksburg.

What happens is that there are several cells involved in farm murders. A cell would receive instructions from the command in Boksburg to become active. That cell would then identify a farm and plan the attack. They are paid for each murder they commit. The weapons as well as the reward come from the police. He forgot to mention the police's involvement in his memorandum. Martin says that he himself is somewhat doubtful over the allegation that the reward for the farm murders comes from the police.

Apparently the PAC itself does not have funds. The Secretary-General of the PAC (Plaatjes) is the chief organizer and he secures the funding. The money comes from the National Lottery. Martin cannot explain how that is being achieved in the light of the fact that that lottery funds are strictly audited.

That fact that criminals are also carrying out farm attacks actually helps them in their objective to drive the farmers off the land.

The PAC group involved in farm murders is called the Tupac, named after a Negro rap singer who has a huge following among the black population in this country. Their members consist mainly of ex-APLA fighters, and their aim is to kill farmers. They want them dead because they want the land.

Martin does not know what the PAC-member is in prison for. It is clear, however, that the PAC looks after him and his family very well. They give his wife and children money. He told Martin that the attacks were going to escalate in 2002 and 2003.

Martin thinks that the reason why the threats against farmers are not made more directly in order to intimidate them to get them off the land, is possibly because the PAC does not want to appear to be involved. They are making overtures towards the Afrikaners, for example, and they do not want to tarnish their image.

Martin has already asked the PAC-member whether he would be prepared to speak to the Committee of Inquiry into Farm Attacks, but the man says that he can gain nothing by it and he will only estrange himself from the PAC if he implicates them in the farm murders. Martin does not have the mandate to divulge his name so that the Committee can speak to him directly. He will talk to him again but he does not think it will help.

However, the Committee does have Martin's permission to make his statement public without any reservations. They can use it in any way they see fit.

### **Mr R. Roman**

A written submission was received from Mr Roger Roman on 2003-01-14. He takes a special interest in the matter of land reform in South Africa. He works closely with various non governmental organisations.

He says that by 1994 some 90% of the land in South Africa was owned by white individuals and enterprises. The new Government then implemented a land reform program, but the market driven process ('willing seller / willing buyer') has proved to be totally inadequate, and only about 3% of landownership has been transferred over the last 9 years.

The strategic picture that emerges can be summed up as follows:

- Land ownership in South Africa is at a crisis point, and market driven reform is inadequate.

- Land ownership is central to the economy, political freedom and the definition of the nation.

- Land invasions and occupations will continue to accelerate in 2003.

- Government and the farming sector alone cannot deliver adequate land reform.

A partnership between the landless, Government and the private sector is the only way to achieve comprehensive rural transformation.

South Africa is rapidly running out of time to prevent full-blown confrontation and violence in rural areas. Zimbabwe has brought the matter to the fore, and NGO's, political parties and traditional leaders regard land reform as central to their strategies for 2003.

Three steps must be taken immediately:

The private sector must be mobilised and organised to participate collectively in the rural transformation process. The commercial banking sector should initiate and fund this rapid process to identify and engage various private sector stakeholders, such as agriculture, mining and property sectors. The banking sector should be the catalyst because of its own massive investment in land ownership and because of its interaction with other sections of the economy.

One of the most significant factors contributing to crime, violence and insecurity in rural areas is the ongoing practice of evictions. Landowners in South Africa, including the Government, must therefore call a moratorium on all evictions and forced removals for a period of at least 6 months.

A partnership should be built. The private sector, through the banking industry, should contact the many organisations involved in land reform. The stakeholders include NGOs that represent the landless, homeless and poor, traditional and other leaders, academic institutions, development and financing entities, Government, science councils, and parastatals.

### **Mr. J. Steinberg: Researcher**

Mr Jonny Steinberg is a journalist with the *Business Day* and an independent researcher. He made submissions to the Committee on 2001-06-19. He is the author or co-author of several publications on the matter of farm attacks, two of which are reviewed in this Report.

According to Mr Steinberg there are many different motives for farm attacks, including land encroachment and volatile relationships between farmers, workers and peasants. He has spent time in areas where relatively prosperous white-owned commercial farms are next to poverty-stricken and derelict rural areas, with high unemployment levels. Most of the residents of such areas are either young or quite aged.

### *Ixopo and Tzaneen*

In Ixopo there were ten farm attacks, including two murders and four armed robberies, over a short period of time. White farmers are convinced that there was an intimidation campaign to force them off their land, which local black people deny. However, on the other side of the 'border', in the black areas, the same sort of crime is being committed against black people. Those who show some sort of wealth - anyone with disposable income - have been attacked, including a priest, a nurse and school teachers. It is said that

some of the people who commit farm attacks are also involved in the armed robberies of people in black areas.

The white farmers use a theory of intimidation to try and explain what is happening and, because of racial divisions, it does not even cross farmers' minds that similar crime is occurring in black areas. The type of goods stolen varies, but the theft of money and vehicle theft and hijacking affect both whites and blacks. Because of the Extension of Security of Tenure Act, and because of the high levels of violent crime, farmers want to move workers off their land incrementally. This they do by not employing new workers on a full-time basis, once old workers died.

In Tzaneen most attacks have been within walking distance of a village. In the village itself the relatively well off (shopkeeper, shebeen owner, nurses) have also been robbed. It appears that the culprits in both areas are unemployed youths, including those who have recently left school. Such youth might migrate to cities and become involved in crime there, before taking these urban experiences with them when they return to the countryside where they grew up. In essence the culprits are predatory criminals motivated by gain.

#### *Statistics*

The manner in which police statistics are collected make it difficult to ascertain what is going on in the relatively impoverished black areas around commercial farms which have been attacked. While statistics are available theoretically, this kind of comparison is not made. There is no mechanism in the CIAC to look at changes in levels of crime in the broader areas in which many farm attacks occur - an apparent methodological flaw in the collection and analysis of statistics. The issue of statistics is an important one, as the statistics for farm attacks influence farmers' perceptions of motives behind attacks. However, even if one had access to such statistics (i.e. to compare crime on commercial farms with surrounding areas) they might still be flawed, for poor township dwellers might be less likely to report when they were victims.

Steinberg offers further general comments on farm attacks:

There is often a mix of motives in attacks - for example, predatory crimes combined with a revenge motive.

Detectives are convinced that politics did not play a major role in farm attacks.

It is very unusual for a farm attack to take place without prior intelligence having been gathered. There are various ways of gathering information, including *shebeen* talk. Where there is a bad relationship between a farmer and his workers those workers are more willing to share information with outsiders about the farmer and his farm, both wittingly and unwittingly.

Of the 70 to 80 cases he has looked at, there are only two in which farm workers have also been attacked, and it appears that they were simply in the wrong place at the wrong time.

There is illegal occupation of land all over South Africa because of land shortage and poverty.

Farmers impound cattle straying onto their land, because often the closest pound is too far away to be utilised conveniently. This type of action creates ill-feeling between farmers, on the one hand, and surrounding communities and cattle owners, on the other.

If relationships between black and white residents in a district were better there would be less predatory crime. The lack of trust between farmers and their workers, and farmers and the communities near them, makes it easier for a predatory criminal to move around the areas and gather intelligence.

Concerning possible ways of changing farmers' perceptions: the Mapogo vigilante group is an example of an organisation which, in a short period of time, has fostered co-operation between black and white middle class people in rural areas and small towns. The police could arrange inter-racial forums where people could meet and communicate.

#### **Ms H.C. van Wijk: RAU Traumatologist**

Ms Tessa van Wijk is a traumatologist, and Manager of the Trauma Clinic at the Rand Afrikaans University. She has dealt with 30 to 35 victims of farm attacks, many of whom are from the Northern Province (Limpopo). She addressed the Committee on 2001-07-24.

According to Ms Van Wyk many farmers live on family farms which they have inherited. For many farmers, therefore, the whole family history lies in the farm, and the children grow up knowing that they themselves will one day be farmers. Even their education is directed towards farming. For farmers, therefore, to be attacked and perhaps forced off their farms is especially traumatic. To leave their farm, many farmers have to totally re-conceptualise their life and what they will do with their lives. Often, all they can do is to farm and they have no skills or qualifications to do anything else.

The older Afrikaners may have a self-image problem, because of our history. They subconsciously feel guilty about what they and their peers did during the apartheid era. This guilt adds to the trauma. Many whites are consequently self-imposed victims-in-waiting. They almost expect to be attacked, robbed, murdered, etc., because of their past and their subconscious feelings of guilt. That means that the white farming community is already quite a traumatised community (even without attacks). Many older Afrikaans speaking women are very conservative. Many of them do not even undress in front of their husbands. If they are then raped in front of their husbands they are extremely traumatised. For victims it can be especially traumatic, if at an ensuing court case the defence tries to portray them as incompetent witnesses. Farmers feel oppressed and targeted because they are white farmers.

A person is born with a certain 'essence' or 'package'. Everything one needs is in that package. One then builds defence mechanisms or walls around one's essence, as it may

be damaged during the normal trials and tribulations of life, for example, the breaking up with a boyfriend. Those walls can be self-pity, arrogance, etc. One functions from the perspective of this essence, protected by the walls, every day. During a traumatic incident, such as a farm attack, those walls are damaged. The picture that the person has of life is shattered.

Many farmers concede that farm workers were treated badly some years ago. That is not really the case any more. Farms are increasingly being run as a business, and they have to look after their personnel. Most white farmers do not have any negative feelings about their 'black' farm workers after an attack. Farm workers may also be victims of a farm attack, but even if not, they are often traumatised as well by an attack.

From a professional point of view one can understand why farmers are saying that attacks are political - and most victims say this. Generally, when vehicles, weapons or cell-phones are robbed farmers perceive it to be a politically motivated attack. On the other hand, if items such as electrical appliances or furniture are taken, the farmers see it as criminally motivated.

There have been some very cruel and gruesome cases. Yet Ms Van Wijk herself has not come across conclusive evidence that attacks are politically motivated. Similar types of violence can be seen in hijacking cases. However, farm attackers have more time, and therefore they can do more, such as committing rape or interact with victims in another cruel way. Rape in the context of a farm attack, especially, is not about the sexual act, but about power and subjugation.

It is essential that the damage done by the trauma of a farm attack be limited and repaired. This can be done both reactively and proactively.

*Reactive assistance:* Trauma centres should be established all over the country, where people who have been attacked can be assisted. They can be treated individually.

*Proactive assistance:* The victims, farm workers and their families should be dealt with together and assisted. This is a long-term process. Farmers, specifically, have to detach themselves from the history of apartheid. By doing that farmers can regain control over their lives.

### **Prof Paulus Zulu (Sociologist)**

Professor Zulu heads a University of Natal based research unit, the Maurice Webb Race Relations Unit, and was, at the time of his retirement at the end of 2001, Vice Principal of the University of Natal. Prof Zulu has undertaken many pieces of research in rural areas, and has published on, among other things, land tenure. In 2001 he had been commissioned by the Study Commission Centre for Development Enterprise to conduct research on popular conceptions of land in rural communities in KwaZulu-Natal. He made submissions to the Committee on 2002-02-06

Prof Zulu's research found that land held a variety of meanings for different people, and for different communities. For some there was an emotional attachment to land which was linked to factors such as historical association with a particular area, and with family graves and community identity. People wanted land for residential purposes, as families grew, and newcomers (e.g. evicted farm labour tenants) contributed to population pressure on existing land. Land was also required in order to develop community resources such as hospitals and schools, and for general community development purposes. Security was probably the most important motivating factor in the acquisition of land: People wanted a place to build a home, grow vegetables, and keep a few livestock.

However, some people associated land acquisition with commercial or entrepreneurial goals - either to engage in smallscale peasant farming, producing a surplus for the market, or in larger commercial farming ventures. The latter involved a high degree of planning and organisation, with proposed training of personnel in production and marketing, as well as capital outlay - as with white commercial farming activities. There were also differences of opinion about whether title to land should be communal or individual, and arguments for and against both types of ownership.

Concerning 'Afrocentric' (communalistic) versus 'Eurocentric' (individualistic) approaches to land, Prof Zulu pointed out that individual perspectives were shaped by existential circumstances. For example, in Ixopo, KwaZulu-Natal, as in other areas where black people had been able to purchase land, there was a long history of private land ownership, and an individualistic ethos prevailed. Because of colonial dispossession there were political overtones to land ownership. Expectations had been raised in 1994, and some farm workers had formed Trusts with a view to acquiring land. Land could be seen as a potential source of income because of high unemployment rates.

With regard to linking land to farm attacks, Prof Zulu pointed out that, if that were the case, attackers would need to come from, or be agents of, aggrieved communities. One had to ask what image farmers represented to the wider community, including to the criminal community. One should also ask to what extent farmers were attacked relative to other, similarly resourced, rural people (i.e. a comparative analysis was needed).

## **CHAPTER 10**

### **LITERATURE REVIEW**

#### **INTRODUCTION**

There is a fairly large body of literature dealing with farm attacks and related issues such as land reform in South Africa. Some of this literature is in the form of reports by the South African Police Service (SAPS), the South African National Defence Force (SANDF) and intelligence structures. There are also a number of publications by academics and researchers on farm attacks in general, as well as some original research on specific aspects, such as the Rural Safety Plan, offenders who have been convicted of farm attacks, issues relating to farmers and farm workers, land reform and the related issue of property rights. A number of short papers and news releases by representatives of farming associations, and topical articles published in magazines, commenting on the phenomenon of farm attacks and suggesting possible counter measures, were also drawn to the attention of the Committee.

The Committee regarded as essential to review all this literature. Firstly, they have information obtained by research which would have been impossible for the Committee to repeat. Secondly, the Committee had to evaluate the conclusions expressed, since later writers often seem to have based their views upon earlier unsubstantiated opinions. The brief of the Committee was to research and the review therefore includes, where deemed pertinent, a critique of this literature. The Committee also tries to indicate why it agrees or does not agree with some of those opinions.

It is convenient to review the various publications under the following rubrics:

- Reports by security force and intelligence structures.
- The causes and prevention of farm attacks.
- Farm attacks in relation to the land issue.
- Relationship between farmers and farm workers.
- The Rural Safety Plan.

It should be noted, however, that the publications reviewed are not the only ones perused by the Committee. The Committee also took note of other reports, books, articles and even newspaper commentaries. Some of them are listed in the bibliography, but time and space do not allow them to be discussed here.

#### **REPORTS BY SECURITY FORCE AND INTELLIGENCE STRUCTURES**

In 1997, in the context of growing demands from farming bodies that the Government should take action on farm attacks, a working group consisting of representatives of the SAPS, the SANDF and the National Intelligence Agency (NIA) was formed under the auspices of the National Intelligence Coordinating Committee (NICOC), with a view to gathering and analyzing available information on farm attacks. The initial NICOC report, in December 1997, and was followed by several other reports by the National Intelligence Coordinating Committee (NICOC), the National Operational Coordinating Committee (NOCOC), the Crime

Information Management Centre (CIMC), the Crime information Analysis Centre (CIAC) and the SAND.

**NICOC: Attacks on members of the farming community (Interdepartmental report, 1997-12-07)**

The report (p 10) provides the first formulation of the definition of ‘farm attacks’, which in essence became the accepted definition and which still remains in use today.<sup>1</sup> Farm attacks are described as ‘attacks on farms and smallholdings as referring to acts aimed against the person of residents on such premises, whether with the intent to murder, rape, rob, steal or inflict bodily harm. In addition to the aforementioned, all actions aimed at harming farming activities as a commercial concern, whether for motives related to ideology, labour relations, land issues, revenge, grievances or racist concerns, for example, malicious damage to property, arson or intimidation also received attention’. However, what is generally referred to as ‘social fabric crime’, i.e. ‘cases related to domestic violence, drunkenness or the “normal” social inter-action between people’ is excluded from the ‘farm attack’ category.

The methods used by NICOC included the re-evaluation of case dockets, the collation of available statistics, an analysis of media reports and ‘overt intelligence, as well as follow-up investigations in areas in which attacks had taken place. Their findings can be summarised as follows:

- From the ‘limited available statistics for the first nine months of 1997’, it appeared (p 4) that the majority of the 290 reported attacks, in which 61 people had died, had taken place in Mpumalanga, with a ‘significant number’ occurring in all the other provinces, except the Western and Northern Cape. However, citing problems with the provision of information on crime by the SAPS, the report stressed that these statistics were not reliable.
- Viciousness ‘often’ characterised crimes against the farming community, thus drawing attention to them. According to preliminary results obtained from docket analyses by provincial offices of CIMC, premeditated murders seem to account for a small percentage of murders in South Africa (p 5), with the majority of murders seemingly associated with ‘social phenomena’ such as drug and alcohol abuse, domestic and inter-personal violence. (Unfortunately no factual information to substantiate this conclusion is provided.) Since the ‘commercial farming community’ only constituted a small percentage of South Africa’s population, their being targeted in an ‘apparently’ premeditated (and vicious) manner, underlined the seriousness of the situation. (It seems that sight is lost of the fact that attacks on smallholdings are included in NICOC’s own definition.)
- A common theme in attacks was robbery, with firearms, cash and vehicles stolen. In some cases there seemed to be a revenge motive
- However, in some of the attacks analysed, nothing had been taken, but the farmer had been killed, and some of the attacks seemed to have been carried out with ‘military precision’, with perpetrators (usually in groups) originating from outside of the area of the attack, even, allegedly, from great distances away (p 5-6). (The phrase ‘military precision’

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<sup>1</sup> NOCOC: *Report on the Rural Protection Plan* (Report by Priority Committee Task Team on Rural Safety, undated) p 3. For a full discussion, see p ?? supra.

became a catch phrase often used to describe farm attacks in general, although completely without justification.)

- Some of these attacks appeared to be of an extremely brutal nature, involving the torture and rape of victims. (No statistics or examples are provided by way of substantiation, although other evidence does seem to support this.) There is also speculation about ‘racial hatred, retribution and/or sheer terrorism’. However, it was acknowledged that black farmers and workers, too, might be attacked.
- Older, more vulnerable people were often targeted, and some of the victims were prominent farmers in their areas who might, it was suggested, be perceived as better off.
- There is also mention of cases in which attackers had been ‘pretending’ to be security force members.

The report speculates about possible motives (p 8), noting that whilst some can be identified from investigations and ‘circumstantial’ evidence, others ‘should be viewed against the background of perceptions/viewpoints held by various individuals and members or organisations (presumably farmers) which cannot be ignored’. (This statement is somewhat illogical, since motives should surely be deduced from the actions of those carrying out the attacks.) Such motives might be criminal, or – referring to allegations by farmers - related to the ‘elimination of farmers’ or ‘land-related issues’. Reference is made to farmers’ perceptions that there is a campaign to drive them off their land, which they link to, amongst other things, the pre-1994 anti-farmer rhetoric by liberation movements, more recent anti-farmer utterances by NGOs, and intimidatory tactics such as the hacking to death of cattle. While there was ‘no direct correlation with attacks’, inflammatory statements by political leaders - one Thomas Likotsi, Free State leader of the PAC, is cited – or NGO leaders, there was a possibility that ‘dissident’ APLA/MK operatives might be implicated in attacks (p 15).

The report also refers to alternative viewpoints that ‘certain elements’ within the agricultural sector and right-wing groupings were using the attacks as a way of whipping up emotions for their own political agendas, possibly with a view to discrediting the government, and justifying taking the law into their own hands.

The report discusses the likely negative consequences of farm attacks for the country – including lack of investor confidence, increased vigilantism coupled with a deterioration in public confidence in the security community - and identifies problems, such as a supposed lack of intelligence capacity. It concludes with recommendations that a central database be established, and that there should be continued collaboration with agricultural NGOs and the national team established to investigate farm attacks.

#### **NICOC: Attacks on farms and smallholdings (Status report, 1998-01-27)**

The second ‘status report’, brought out in January 1998, was largely devoted to attempts by the intelligence community to identify perpetrators involved in farm attacks, and an analysis of trends. Thus far, it noted, it had not been possible to prove any link between any specific group or organization, or any conspiracy behind the attacks. In the discussion of trends, some assertions of previous reports are repeated insofar as the pre-planning of attacks and levels of violence are concerned. It is also averred that ‘in almost every case, the degree of violence...completely excessive (and) if a female is present she is usually raped’. (Again,

however, there is no substantiating evidence. The allegation that female victims are usually raped during farm attacks was also an unwanted generalisation that was to be perpetuated.)

The report states that there were 'very few' cases which might be grudge-related and that crime was the main factor in the attacks. There was only one case (in the Northern Cape) in which the accused had claimed that it had been their intention to force the farmer off the land. No political link was established in a Free State case in which an APLA slogan had been painted on the wall at a murder scene (the specifics of the case are not given). Nevertheless, in some of the cases, it was alleged by the accused that the reason why they had committed the murder was that the white farmers were occupying land which historically belonged to them. However, no further details relating to these cases are provided, and it is conceded that 'no clear motive has as yet been established in connection with numerous unsolved cases of attacks..... while some outstanding questions still remain with regard to some other cases'. In conclusion, 'action steps' planned by this inter-departmental committee are outlined, including the continued gathering and processing of information, and close collaboration with Assistant Commissioner Britz and Director Seyisi, who would 're-evaluate all cases pertaining to attacks....since 1 January 1997 and...personally attend to any new cases reported' (p 7-8). The findings of these two senior detectives were given in a report which appeared several months later.

**SAPS: Attacks on farms and smallholdings (Departmental report compiled by Ass. Comm. K.J. Britz and Dir. M.E Seyisi., August 1998)**

Assistant Commissioner 'Suiker' Britz and Director Errol Seyisi, who had been appointed by the President to coordinate investigations into crimes against the farming community, conducted an 'in depth' investigation of farm attacks between 1 January 1998 and 31 May 1998. After completing and submitting an incident report for all crimes falling under the rubric of 'farm attacks', investigating officers were required to complete specially designed questionnaires (Annexure A of the report), which were then evaluated and analysed at weekly meetings of the SAPS, SANDF, NIA, NOCOC and SAAU (South African Agricultural Union) Working Group. According to their report (p 2), some questionnaires were still outstanding at the time of writing the report.

With a view to detecting motives for the attacks, the 191 suspects arrested for the cases analysed had been subject to 'thorough investigation', and had been 'questioned by different role players'. All information received, including from SAAU, had been thoroughly investigated.

A detailed breakdown of incidents each month, including per province, for the five month period is provided (p 3-8), followed by a discussion (p12) of motives:

Of the 305 attacks during this period in question 199 took place on farms and 106 on smallholdings. With a few exceptions, the motive was robbery or, in a few cases, revenge. The report notes the problems inherent in conflating attacks on farms and smallholdings (p 18-19) and points to the need to distinguish between them. Research showed that a 'large percentage' of people attacking farms came from the 'target farm or vicinity' or were linked to it in some way. The isolation of farms also rendered them 'soft targets'. In contrast, many of

the attacks on smallholdings were carried out by people from nearby townships or informal settlements.

In only three of the 305 cases, the report avers, were there 'possible' other motives, viz an attack in the Free State in which one of the suspects was a member of APLA, who had spent some time in the SANDF (although the attack had apparently been planned by a former employee), a case in the North West in which an arrested suspect, although claiming to be an APLA member, denied having committed the crime in the name of the organization, and a Northern Cape case in which, although the suspect had commented that farmers should be killed, the motive appeared to be robbery.

In response to issues raised by the SAAU, the report stresses that the main motive for the attacks appeared criminal, pointing out that all murders were brutal. It also suggests various reasons why attackers might lie in wait for a farmer and/or kill him, e.g. they might need the key of a safe or car in his possession, or might fear being identified. Nor is there anything abnormal about urban-rural links, such as those between former employees and urban criminals, since this type of migration has been a feature of South African life since the 19<sup>th</sup> century. While conceding that racial tensions, or revenge motives generated by dismissals, might play a part, the motive in '99% of attacks' appeared criminal (p 18), and the investigators found no evidence of hit squads or other sinister forces orchestrating attacks.

In their concluding recommendations, Britz and Seyisi, whilst not minimizing the seriousness of farm attacks, warn against politicising the issue – including through 'irresponsible comments' – and recommend that the Rural Safety Plan, commando and farm guard systems, be supported and 'utilised optimally', and that 'loyal employees' be apprised of potential threat and drawn into preventive strategies. Whilst there was no indication that motives other than criminality played a part in farm attacks, investigations were continuing.

**CIAC: Attacks on farms and smallholdings (in Quarterly Crime Report, September 1998, p 20.)**

The Crime Information Analysis Centre (CIAC), which used to be the Crime Information Management Centre (CIMC) prior to 1998, compiled five reports which dealt specifically with farm attacks: two in 1998, two in 1999 and the latest in 2002. The first, which formed part of their Quarterly Crime Report, covers 1997 and also makes certain comparisons with the first six months of 1998. It starts with the important caveat (p 20) that the SAPS crime code list does not include a category for 'attacks on farms and smallholdings', and that, since the occupation of the victims and description of premises on which the crime took place is not given in crime data submitted to this component of the SAPS for analysis, police statistics are 'dependent on ad hoc reports from ground level in SAPS and the statistics provided refer only to those cases which have in this way come to the attention of CIMC'.

From the reported attacks (eleven of which were on uninhabited premises), the provinces of KwaZulu-Natal and Mpumalanga experienced most incidents in 1997, with the Northern and Western Cape experiencing relatively few such attacks. The report continues that although statistics for 1998 were still being processed, preliminary figures for that year suggested a sharp increase in the number of such attacks.

A number of themes of earlier NICOC reports – including the ‘social fabric’ nature of the vast majority of murders in South Africa, and the ‘obvious degree of violence’ in farm attacks – are re-iterated (p 24, 29), without any substantiating facts or the provision of more detailed information. However, the generally brutal nature of crime in SA is subsequently pointed out (p 40), together with possible reasons for this phenomenon.

Although armed robbery was the main crime committed against farmers (breakdowns are given on p 29), the report notes that in over one fifth of reported incidents nothing had been stolen, and suggests possible reasons such as failure to gain access to homestead, or motives such as ‘revenge, land disputes...’. Stock theft, too, remained a problem.

The report provides a breakdown of characteristics of farm attacks, such as the percentage of attacks in which firearms had been used (two thirds of attacks), the race of victims (20% were black), and the nationality of attackers (in 1997 the overwhelming majority had been South African). Although the report draws attention to there having been a degree of negligence in some cases, it stresses that the intention was to alert potential victims rather than attribute blame. A breakdown of distances of farms which had been targeted from the nearest public road is also given (in 70% of cases this had been within 4 km). According to investigating officers, motives for attacks were ‘financial gain’ in the overwhelming majority of cases, with relatively few being attributed to grudge or revenge factors – and one (p 32) to a land dispute. The report also looks at the profiles of perpetrators, noting that a small percentage had been employees.

#### **CIAC: Attacks on farms and smallholdings (Compiled by Supt. J.C. Strauss, December 1998.)**

The second of the 1998 reports focuses primarily on the first six months of that year, but comparisons are made with 1997 trends. There was still no provision for ‘farm violence’ as a SAPS crime code category, and information in this report came from questionnaires completed by the SAPS. The report refers to logistical and methodological problems in the processing of data, e.g. the lack of data typists and statisticians.

During the first six months of 1998, Gauteng, Kwazulu-Natal and Mpumalanga had experienced most of the attacks, with relatively few occurring in the Northern Cape. (Breakdowns are given on p 3-10.) Comments made in previous reports mentioned above recur, including those concerning the ‘massive increase’ of incidents of attacks and murders between 1997 and 1998 (pp 11, 12 and 25), and the fact that ‘headline murders’ (hijackings, taxi-related, cash-in-transit, etc., into which category farm attacks fell), constituted only a small percentage of all murders.

The main findings of this report, which did not differ significantly from those of earlier security agency reports, were as follows:

- Armed robbery, committed in 58% of attacks, was the most common crime, followed by attempted murder (21%), murder (17%) and burglary (15%).
- In 27% of the incidents nothing was stolen, and various possible reasons (e.g. resistance by victims, or thieves being taken by surprise before anything could be taken) were advanced.

- A breakdown of the time of day in which attacks took place is given (e.g. 44% occurred between 16:00 and 24:00), but no clear pattern emerged regarding specific days of the week on which attacks were more likely to occur.
- In 58% of the cases victims were attacked inside their homes (in two thirds of these cases the attackers had gained unforced entry), and in 45% of the cases the attacks took place outside (the total of 103% arises from the fact that in some cases in which there were multiple victims attacked some were inside and some were outside).
- In 26% of the cases victims were ambushed by attackers lying in wait, in the farmyard, at farm entrances, inside the homestead, or in outhouses.
- Firearms were used in approximately two thirds of attacks.
- Almost 23% of the victims, including almost 17% of those murdered, were black.
- The overwhelming majority of the 332 suspects arrested were South Africans; only nine were not.
- More than three quarters of the suspected attackers were under the age of 30, and 48 (of the 332) had one or more previous convictions.
- Over 70% of the victims were over the age of 50.

The report concludes with a warning regarding 'ill considered public utterances', and stresses the need for information to be given to the police from 'the ground'.

**CIAC: Attacks on farms and smallholdings (Report No 1 of 1999, compiled by Supt. J.C. Strauss, May 1999)**

The report covers the period 1998 and the first quarter of 1999. It again starts by referring to the problems in obtaining accurate information and statistics about farm attacks (p 1): 'The continuing critical lack of personnel and information processing technology is compounded by the incompleteness of and other deficiencies pertaining to some of the questionnaires and incident reports returned to this office from ground level and used as the basis of present research.'

Nevertheless, available statistics showed that there had been a 'more or less consistent increase in farm attacks since January 1997', with a decrease after the October 1998 Rural Summit, followed by an increase to an 'all time high' in March 1999 (the report asks whether the summit could have inhibited attacks, but does not suggest any mechanisms by which this could have happened). Despite problems with the quality of information processing, however, it avers (p 7) that there is no reason to suspect significant deviations from earlier trends.

Statistics provided (p 3-5) show that Gauteng and KwaZulu-Natal recorded the highest number of incidents (184 and 162 respectively during the latter part of 1998), followed by Mpumalanga province (110). In what appears a slight shift in emphasis, compared with earlier assertions about the brutality of attacks, it is suggested that *if* attacks should turn out to be more brutal than other types of crime then there *might be* a racial or ideological element present. (Italics added.)

This report was written immediately before the June 1999 elections and – referring to alleged continuing intimidation of farmers, including by ‘driving cattle onto property to stage land invasions’ – it warns against political parties making inflammatory statements (p17).

Another area of focus in this report is the type of security measures (such as the presence of dogs, security gates, burglar proofing, external lighting and the carrying of firearms) taken by farmers, based on questionnaire-based research on 207 farms in the Eastern Cape. It concludes that, although farmers generally have the means of communicating with the outside world, they are not sufficiently security conscious, and recommendations regarding security measures are made.<sup>2</sup>

**CIAC: Attacks on farms and smallholdings: 1 January – 30 June 1999 (Compiled by Supt J.C. Strauss, September 1999)**

This report was very much an interim report, comparing statistics for the first six months of the years 1997 to 1999. Noting that the increase of 4,5% in farm murders in the first half of 1999 was, relative to the same period in 1998, four times higher than the increase in the overall murder rate in the country, the report starts by claiming that farm attacks escalated out of proportion to the general crime rate in the country. However, after reaching a peak in March 1999, attacks ‘stabilised at high levels’ for the following three months. During these months the worst affected provinces were Gauteng, Mpumalanga and KwaZulu-Natal (p 1-4). The geographical spread of attacks is given on p 4-9.

Further findings (p 10-11), in which no distinct changes were noted since the previous report, were:

- Some of the attacks had clearly been well planned and preceded by reconnaissance, so farmers should be on the look out for signs indicating an attack.
- The distribution of attacks suggested that they sometimes occurred in ‘clusters’ (no examples are given) which might suggest that criminal gangs were targeting specific areas (p 9).
- In a few cases workers had supplied information to criminals; however, workers themselves were also victims.
- Investigations into police complicity were continuing. (Further details are not given.)
- Stock theft remained a problem.
- Many of the attacks were still of a very brutal nature, with ‘several instances of people being shot after they had been tied up’ having occurred and ‘from evidence in court cases ..... it does seem as if a deep-seated hatred plays a role in some of these cases’. (Unfortunately no examples are given.)
- Even a high conviction rate did not seem to deter attackers.

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<sup>2</sup> For a fuller breakdown of this research, see Schönreich M. and Steinberg J. *Attacks on farms and smallholdings: An analysis of the rural protection plan* (Institute for Security Studies, Pretoria, 2000) p 30.

**SANDF: Attacks on farms and smallholdings: November 1998 – 15 March 1999  
(Research report compiled by Brig. Gen. J.F. Lusse.)**

This report contains information of relevance for the Rural Protection Plan which, implemented in October 1997, aimed to ‘encourage all role players concerned with rural safety to work together in a co-ordinated manner, and engage in joint planning, action and monitoring to combat crime in the country’s rural areas’.<sup>3</sup>

The information used in the report had been gathered from commanders of nine SANDF regions, who had been requested by the Chief Joint Operations to submit information on every attack in their areas of responsibility during November 1998 to March 1999.

According to figures provided by NOCOC there had been 283 attacks, in which 46 people had died and 154 had been injured during the period in question. Seventy three of these 284 incidents had been reported to SANDF structures via commando involvement and, of these 55 ‘case studies’ which were suitable for research purposes, had been received. In other words, 75% of the cases reported to the SANDF is analysed in the report.

Of the victims in these attacks, 21 were active in commando or police reservist structures, and in only one instance a commando member was killed in an attack (p 2); however, ‘in 11 incidents (20%) the attacks were repelled by the victims with loss of life among the assailants’ (p 3).

This report describes how the commando system was activated in cases of attack – primarily through the NEAR radio system (in the vast majority of cases telephone connections had been severed prior to the attack) – as well as the extent to which security measures was in place, and/or utilized, and the location on the farm on which the attack occurred (e.g. in the house or at a farm stall). It notes that firearms were used in 56% of the incidents.

Regarding victims, all were been between the ages of 49 and 84, with 69% being older than 60 years. According to this report (p 6) the incidence of rape in these cases was high: ‘In 35 incidents (64%) the women were raped by the assailants and in six incidents (11%) 13 (sic) the victims were forced to act degradedly....In 48 incidents (87%) there were a total of 49 women among the victims of which 36 (73%) were raped....’ (The pie chart providing a breakdown of the type of crime (p 7) uses the words ‘sexually assaulted’ and ‘degradedly assaulted’ as opposed to ‘rape’.)

The profile of attackers provided by this report is similar to CIAC reports: In most cases there were three or more, aged 31 or younger. However, unlike the other reports which suggest that relatively few of the attackers were known to the assailants, attackers were known to the victims in three quarters of the cases analysed in this research, and violence may have been used in an attempt to silence them. As indicated by the ages of the victims, the elderly appeared particularly vulnerable to attack.

In discussing possible motives, the report posits only one instance which appeared political, in which the victim had been killed because he had allegedly ‘lived with a woman of colour’ (p 5). Revenge was the presumed motive in 18% of the attacks (p 5), with the 80% remaining

<sup>3</sup> See Schönsteich M. and Steinberg J. *op cit* p 19.

incidents being attributed to crime, with firearms, vehicles, cash and jewelry the main items stolen. Intriguingly, single action shotguns were left behind when hand weapons and/or automatic rifles were stolen, suggesting that attackers possessed some basic knowledge about guns.

For the first time in the literature emanating from security structures there is mention of ‘battle indicators’ such as the staking out of the farm targeted, the questioning of employees, approaches to the farmer (for example, to purchase a commodity), some type of threatening behaviour by unknown persons prior to the attack, or disquiet amongst farm workers in the days preceding the incident (p 8).

The report concludes with recommendations concerning improving protection through training farmers to recognize omens in the form of battle indicators, and greater involvement in, and improvement of, the commando system in the Rural Protection Plan.

**CIAC Report: Attacks on farms and smallholdings: 2001 (Compiled by Supt. J.C. Strauss and N. J. Grobler, August 2002)**

This report has not yet been made public because some of the information is still to be verified. CIAC has kindly made the report available to the Committee, however, with the caveat that the information is to be regarded as provisional only. The report is the best of all official reports brought out so far: It is well-structured and contains very useful information not available previously. The report is referred to extensively in other sections of the Committee’s own report, and will therefore be reviewed here only briefly.

The report indicates that the number of incidents during 2001 exceeded the one thousand number for the first time, standing at 1011, which was an 11.6% increase on the previous year. Murders only increased marginally, however, and stood at 147 against 144 for 2000. In fact, the figure for murder has remained at between 140 and 150 since 1998 (p 8).

Important statistics on victims are given for the first time, with a breakdown of the figures for the various provinces. The total number of victims came to 1398. Apart from those killed, 484 of the victims were injured seriously. Furthermore, an analysis of the age, gender, as well as of the race of the victims, is made. (This was obviously in response to the allegation that white farmers are being targeted in farm attacks.) It is also indicated how many farm workers or their families were attacked.

For the first time, also, the report distinguishes (p 9) between farms and smallholdings, indicating that 37.7% of the attacks occurred on smallholdings.<sup>4</sup> The report analyses the time and place (e.g. inside the house) of the attacks, weapons used by the attackers and the items robbed. It also analyses the main offences committed and remarks (page 16) on ‘the disproportionate number of violent crimes accompanying attacks on farms and smallholdings’.

The reports concludes (p 18) by stating that the SAPS is ‘remarkably successful in apprehending the criminals involved in attacks on farms and smallholdings and in many provinces the chances of such criminals escaping justice are very slim indeed’. (Unfortunately

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<sup>4</sup> The Lusse report made a limited analysis of the proportion of attacks on farms and those on smallholdings – see p 244.

no statistics are given.) It says that the trends during 2001 did not indicate any significant new developments, although more farm workers and foreigners seemed to have been involved in farm attacks.

The report says that there is no concrete evidence of a coordinated onslaught against the farming community, but it warns against the threat of intimidation, arson and theft of stock and crops, which are forcing some farmers off their land. On the plus side the implementation of the Rural Protection Plan, the gathering of prior information, the vigilance of potential victims and the involvement of the SANDF have had a positive effect.

### **Summary of security agency literature**

In summary, there are common themes in the above-mentioned reports:

- The overwhelming majority of farm attacks are attributed to criminal motives (robbery of guns, cash, cars etc) with some cases in which there is a revenge motive.
- The majority of victims are middle aged and elderly and thus seen as 'soft targets'.
- Perpetrators usually operate in groups and there may be urban-rural links; in some instances intelligence for the attack is provided by employees or ex-employees, and there is evidence of planning taking place before the actual attack.
- There is mention of isolated cases in which there are possible political motives, but in none of these instances was any link to organizational structures proven.
- There is a problem in conflating smallholdings and farms for statistical and analytical purposes.
- Those targeted include black as well as white victims

However, in general there are also points of criticism of these reports:

- The compilation of the statistical information, which is of central importance to the analysis, has not always been satisfactory. The latest CIAC report has taken a new direction, however.
- There is a tendency to make ready generalizations without substantiation. For example, assertions are made about women being 'usually' raped, but there is little statistical detail to substantiate this. Nor is there any exposition as to why farm attacks are supposedly more brutal than other crimes, except in the last CIAC report. At the same time, not only are these statistics widely cited, usually uncritically, but these unsubstantiated generalizations are often picked up and used, selectively, to support interpretations that there is a hidden political agenda to attacks, as will be indicated below.

## CAUSES OF FARM ATTACKS AND THE PREVENTION THEREOF

### **Louw A.: A Framework for Solving Farm Attacks? (in Nedcor ISS Crime Index No 5, 1998, p 7.)**

In her article Louw compares the statistics for attacks in different provinces for the period January to September 1997 and 1998. She notes that just over a third of these attacks took place on small holdings, accounting for just over forty percent of people killed during the January – May 1998 period. (It is not clear where Louw got the statistics from.) Louw argues that it is essential to separate attacks on smallholdings from those on farms if a strategy to counter farm attacks is to be formulated, because there are differences in dealing with crime in urban and rural areas. Furthermore, attacks on farms should be viewed and dealt with in the broader context of crime and safety in rural areas generally.

Of the deaths during this period, 31 had occurred on farms and assuming, says Louw, that the population universe of farmers, workers and their dependents was 4,5 million (she does not indicate how she arrived at this figure), the farm attack murder rate is actually 0,6 people per 100 000 of the population for that period. In contrast, she notes, the general murder rate for January to March 1998 was actually much higher – 13 per 100 000. This reasoning is erroneous, of course, since by definition all social fabric crimes are excluded from the farm attack category. Furthermore, it is almost impossible to establish the total number of persons on South African farms.<sup>5</sup>

### **Shaw M.: A Grim Harvest : Countering Attacks on Farms and Smallholdings. (Crime and Conflict No 15, Autumn 1999)**

Drawing uncritically on statistics from relevant CIAC reports, Shaw compares attacks on farms and smallholdings for the months January to September 1997 and 1998. He provides a succinct overview of findings presented in these reports before going on to discuss the high profile Rural Safety and Security Summit which had been held in October 1998, as a result of allegations that the State was failing to address what farmers had claimed was a campaign to drive them off their land.

Referring to the Summit as a success (p 7-8), he notes the formation of three working groups, each with areas of responsibility, to take the process initiated at the Summit further, i.e. those looking at communication and research, operational responses relating to the Rural Protection Plan, and rural safety policy. While the Rural Safety Task Team had been working with ‘some success’ in reducing attacks on farmers, Shaw identifies two areas of concern relating to, firstly, the need to focus also on continuing attacks on small holdings and, secondly, reservations relating to the composition of the Task Team, in which government participants are ‘over represented’, whilst there are problems in securing representation of small farmers and landless people.

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<sup>5</sup> For a full discussion, see p 282.

**Visser J.M.: Violent attacks on farmers in South Africa (ISSUP Bulletin, University of Pretoria, March 1998)**

This overview of farm attacks was written by South African Agricultural Union official J.M. Visser in his personal capacity. He illustrates his article with a breakdown of attacks on farms during the 1994-1997 period, which is not sourced, but is presumably from records kept by the agricultural union, since there are no pre-1997 statistics in CIAC and NOCOC reports.<sup>6</sup> The statistics used show a wildly fluctuating pattern in the number of farm attacks between 1994 and 1997, but a noticeable increase in the number of murders during this period (from 92 in 1994 to 142 in 1997). Since he is able to give a breakdown of the days of the week on which most attacks had occurred, he is presumably drawing on a detailed database. For reasons discussed elsewhere<sup>7</sup>, however, the validity of the 1996 and 1997 figures must be called into question.

Possible factors giving rise to attacks on farmers - the culture of violence, poverty and unemployment, revenge, access to firearms, organized crime, illegal immigrants, gang-related crimes and inflammatory statements – are discussed briefly (p 2-5), followed by a breakdown of the type of attacks taking place. In addition to attacks on farmers and workers, robbery and hijacking he notes also the incidence of arson and stock theft (p 5-6); the latter, he notes, is becoming increasingly problematic, leading many farmers to abandon this type of farming. (Stock theft, it should be noted, is a tremendous problem to black subsistence and white commercial farmers alike.)

Broad characteristics of attacks are summarized under ‘Extent of the attacks’ (p 7), followed by a discussion of the factors which increase victims’ vulnerability (p 8-9), the times (months, days of the week) at which attacks have been most likely to take place and the *modus operandi* of the victims. There is also a brief overview of the Rural Safety Plan.

There is a considerable degree of overlap with information contained in the security agency reports referred to above, including a reference to cases in which political overtones appear in the rhetoric of the attackers (p 8). There is, unfortunately, also a general lack of specificity with regard to some of the assertions made, making follow up difficult. For example, no examples of instances in which ‘land is reclaimed by emotional or unstable claimants’ (p 9) are given, and nor are the cases in which ‘attackers pretend to be members of the security forces and are even dressed in uniform to mislead the householder’ (p 10-11) detailed.

**Naude W. and Van Rensburg L.: Farm attacks in rural South Africa – an economic explanation. (African Insight, Vol 29, Nos 3-4, January 2000.)**

In this paper the authors, researchers from the University of Potchefstroom, provide a detailed breakdown of the type of economic factors - poverty, unemployment and gross inequality – which they consider, to be extremely likely to fuel an escalation of violent crime, including farm attacks, in rural areas. Their analysis is based on data relating to the North West Province, where agricultural production is a significant contributor to earnings in this sector nationally. Whilst there would, they note, be certain variables which would be specific to this province, a number of factors impacting upon increasing levels of poverty there – including

<sup>6</sup> The 1997 figure he uses differs from that of CIAC – see p 19.

<sup>7</sup> See p 21.

GEAR macro economic policy and the possible effect of legislation relating to farm workers, such as the Land Tenure Act – would also apply to the country as a whole.

Against the background of steady cutbacks in the agricultural, mining and construction sectors during the past two decades, and existing widespread rural poverty (statistics are cited), the authors predict that unemployment will increase, especially for low-skilled male employees, including migrants to urban areas. Whilst there is, as elsewhere, increasing ‘within race’ inequality, there were still glaring discrepancies between white and black farmers as racial categories, the historical legacy of underdevelopment of black agriculture remained, with African farmers falling into a ‘peasant’ or subsistence and not ‘commercial’ category.

To remedy the situation, thereby averting what the authors argue is a ‘likely ..... escalation of crime in rural areas’ (p 55), they suggest a number of initiatives which could be taken by commercial farmers, business and Government:

- Developing and strengthening ‘off farm economic activities’ and rural markets.
- The promotion of small-scale farming and strengthening black-owned or joint venture commercial agricultural projects.
- Improving business opportunities in rural areas.
- Employment subsidies to encourage employment in commercial agriculture.
- The development of rural tourism.
- Strengthening local government and its role in developing social and economic infrastructure.
- Investment in human capital through education and training.

The authors make specific recommendations (p 55) regarding the role of commercial farmers in improving the living conditions of their workers, and assisting with ‘social infrastructure’, such as medical and educational facilities and insurance to rural inhabitants’ – arguing that it is in the interests of farmers’ security, and rural safety generally, to promote the type of economic development they advocate.

**Mistry D. and Dhlamini J.: Perpetrators of Farm Attacks: An Offender Profile. (Institute for Human Rights and Criminal Justice Studies, March 2001)**

The authors of this study are attached to the Institute for Human Rights and Criminal Justice Studies of Technikon SA. The study is based on research they had undertaken to develop an offender profile, with a view to determining the motivation underlying violent attacks on farms.

Forty-eight offenders who had committed such crimes between January 1997 and February 1998, and who were, in 2000, serving prison sentences, were interviewed. Offenders were asked questions about

- their family background,
- the circumstances surrounding the attacks,
- their emotional state before, during and after the attack,

- their reasons for targeting particular farms,
- their knowledge about security on those farms,
- their involvement in other crimes,
- their views about their sentences, and
- possible ways of preventing similar attacks

It was found that the offender who was involved in farm attacks was a young, single, unemployed black South African male between the ages of 15 and 35 with an unstable family background (raised by a single parent, grandparents or relatives).

The motive in most (90%) cases was robbery. A small percentage (6%) of offenders said they had grudges against the victims targeted. The rest did not know why they went to the farms. Victims in robbery-motivated attacks were injured or killed if they were not co-operating, retaliated, or could identify the offenders. Younger offenders were often anxious and panicked during the attacks, also resulting in victims being injured or killed.

Many (48%) of the farms were targeted because offenders had information about the availability of money and lack of security on those farms. Present or previous employees had often told offenders that farmers kept money in safes in their homes. It is not clear whether or not employees provided information because they were disgruntled, or whether they were unaware that the offenders might attack farms.

Offenders motivated by robbery took between three to seven days to plan their attacks, often camping nearby. Most offenders (67%) traveled less than 40km to the farms they attacked. Half of all offenders had lived on a farm at some point in their lives. The majority of offenders had illegal firearms and knives at their disposal during the attacks. The main target of robberies was money rather than firearms. If there was no disturbance, however, they stole whatever items were available.

The majority (73%) of offenders had never heard of the commando system, despite the introduction of the Rural Safety Plan in late 1997. They did not worry about the possibility of being caught by police. They felt police stations were too far away from farms. They did not worry about being shot by victims either. This was because attacks were planned so that victims would be surprised and unlikely to retaliate successfully.

More than half (54%) of all offenders had previous convictions. A third had previously committed similar farm attacks. However, most offenders under 18 years of age were first-time offenders. Offenders did not believe harsh sentences to be a deterrent, as they did not expect to get caught at the time the crimes were committed.

The authors concluded that farm attacks were not generally politically or racially motivated but rather that, for the criminally inclined in depressed rural areas, farms were logical targets of relative wealth.

Short-term recommendations for farm attacks, the authors suggested, should thus focus on measures to reduce the relative 'attractiveness' of farms in terms of attack. Security should be improved as many farms had very little security. Incentives for attacks should be removed by ensuring that money was not kept on farms, and that this fact was known. Farm workers

should be enlisted on the side of their employers, with a view to (a) their reporting suspicious persons camping nearby, and (b) preventing them giving out information that might lead to attacks. Content farm workers with a stake in the survival of farming operations were more likely to assist in this regard.

In the long term, however, measures to address rural unemployment and poverty, and to reduce the number of persons growing up in unstable families, were needed.

The most serious criticism against the methodology used in the study is that the researchers had to rely to a large extent on the word of the perpetrators – a fact acknowledged by the authors (p 16). In one case (p 41) three attackers aged between 20 and 23 attacked a 75 year old farmer who was lying under a tree. The one attacker simply went straight to the farmer and stabbed him to death without saying a word because, he says, he panicked since there was not supposed to be someone home and it was the first time he had been involved in such an attack. It is difficult to see why the three could not simply have overpowered the victim. There are other cases, too, where unconvincing explanations are given, e.g. p 38 to 39, where the farm worker inflicted several stab wounds on a farmer's wife, killing her in an obvious revenge attack. His explanation is that he did not realize the victim was a woman.

Although the researchers had access to the police docket on the cases, they unfortunately experienced great difficulty in getting hold of the official court records. They were also hamstrung by the fact that, although they could ask probing questions, it would have been improper for them to cross-examine the interviewees to reveal any mendacity on their part. On the other hand, the way in which the perpetrators rationalized their actions is revealing in itself (p 16). Furthermore, many of the perpetrators were obviously truthful during the interviews. In short, it is a very useful study.

## **FARM ATTACKS IN RELATION TO THE LAND ISSUE**

### **Haefele B.W.: Violent attacks on farmers in South Africa: is there a hidden agenda? (Centre for Military Studies, University of Stellenbosch, 1999)**

This 1999 conference paper,<sup>8</sup> written by a researcher at the Centre for Military Studies at the University of Stellenbosch, is largely a reworking of material from security agency reports and the article by Visser, all of which are summarized above – even to the extent of pieces of it having been copied, word for word, from these sources. For example, on page 4 the following is found: ‘In analyzing the possible motives for the attacks on the farming community.....some of the motives can be identified from investigations and others deduced (sic) from circumstantial evidence. Other motives have to be viewed against the background of perceptions held by various individuals and members .....’ Apart from the omission of one word (viewpoints) and the misspelling of another (‘deduced’) it is exactly the same as point 15 on page 8 of the NICOC report of 5 December 1997. The paper is also riddled with unsubstantiated generalizations.

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<sup>8</sup> Paper presented at the Crimsa International Conference, 1999; Crime Prevention in the New Millennium, Cintsu, 25-28 May 1999

After citing increases in crime, including farm attacks, in recent years and referring to characteristics of, and possible motives for, farm attacks (p 1-6), Haefele proceeds to explore the 'land issue' as a possible motive for attacks. He presents a brief, grossly oversimplified picture of farming in nineteenth century South Africa – which totally ignores an important body of research by historians and anthropologists on the important economic role played by black peasant farmers during that period.<sup>9</sup> He moves on to look at the period after the formation of the Union of South Africa in 1910, in which the infamous Land Acts were enacted (his treatment of this period is, again, greatly oversimplified) before touching on the death blows dealt to black peasant farmers after the advent of apartheid in 1948. He then turns his attention to the present Government's land affairs policy, as embodied in the Land Affairs White Paper dealing with reform and restitution (p 7). He avers, however, that although the Department of Land Affairs has made progress, 'it seems as if a sinister force is hindering the reconciliation and reconstruction of agriculture in South Africa', for 507 farmers and their families had been murdered in 1158 attacks between April 1994 and June 1998.<sup>10</sup>

The author goes on to suggest that competing claims – for example, between different communities, or between men and women, or 'members of communal property associations, who move as group onto a previously white-owned farm, and the resident farm workers, who may be deprived of access to land' (p 8) – may hamper the land reform process. The crux of his argument appears to be that, because of this land reform programme '(t)ensions are running high and people are emotionally aroused. Further statements regarding the ownership of farms and which are widely published in both the electronic and printed media, can create a climate for attacks on farmers' (*ibid*).

Why, if people – according to the argument he puts forward – are fighting among themselves for the spoils of land reform, they should attack farmers, is not explained, nor is any evidence produced to show a link between people who are suffering from relative deprivation because of land redistribution and attacks on farmers.

The paper then jumps to the subject of the Rural Safety Plan, questioning whether – in the light of the reported dramatic rise in attacks between 1997 and 1998 – it is a success, or whether citizens, lacking protection from the State, need to turn to private security companies such as Executive Outcomes, which had reduced stock theft in the Eastern Cape. In his conclusions, the author concedes that '(b)ecause of limited evidence, it is dangerous to draw conclusions regarding the land claim issue'. However, without providing any examples by way of substantiation, he then goes on to claim that 'attacks may be aimed at farmers living on former tribal land which had been expropriated under the previous dispensation. Previous owners may reclaim their land and this can give rise to the farm attacks'.<sup>11</sup>

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<sup>9</sup> This subject is dealt with in more detail in the discussion of the works by Moolman and by Van de Graaf and Jordaan.

<sup>10</sup> It is not clear where these statistics are taken from; the Land Affairs White paper is referenced, but it seems that the statistics are taken from the SAAU data

<sup>11</sup> This is a direct quotation, without acknowledgment, from J.M. Visser: *Violent attacks on farmers in South Africa* – see p 231.

### **Moolman C.J.: Farm attacks and the African Renaissance. (2000)**

This monograph by criminologist, Prof C J Moolman, is the most detailed, scholarly and comprehensive attempt to explain the phenomenon of farm attacks. This is a very important work which merits close consideration. Unfortunately space permits only a broad summary of the most salient features of his detailed argument.

Arguing that farm attacks should be viewed against the broader political background (p 2), Moolman situates them within the context of the African Renaissance, referring to historical and cosmological factors, as well as contemporary land issues in South Africa. The author draws on the crime and intelligence reports discussed above, as well as agricultural organizations (SAAU/AgriSA and TAU), for statistics for the period 1991-1999. He also conducted independent research using a variety of methods, such as sifting through media reports and relevant literature. He also conducted interviews with members of the police and farming communities as well as with various other well-informed people, such as a specialist in indigenous law, traditional leaders, and anthropologists (p 10).

Moolman argues that explanations provided by police and intelligence structures (which are referred to in some detail, e.g. Chapters 5, 6 and 7) and other researchers, cannot account for the steep increase in farm attacks in recent years, and the premeditated and brutal nature of these attacks. The driving force behind these attacks, he avers, is located in African nationalism, which is a product of a clash of African and Western cultures (p 167), and the political resistance spawned by colonialism and apartheid. The focal point of the present struggle is land, in the context of expectations of land restitution engendered in the course of the liberation struggle, the policy of the post-1994 Government and the tardiness of this Government in implementing this policy.

Central to Moolman's argument is the concept of 'mindset' (p 20, 73-76). There is a European mindset, characterized by, amongst other things, individualism, enterprise, free market economy and technological innovation. This type of mindset is associated with white commercial farming. In contrast, central to the African mindset is communalism, shared access to land, the inheritance of land, and a type of mystical relationship between humans and land (a person without land is not human). There are also important linkages between land and world view/cosmology, especially through ancestors. There is a 'high level of unadaptability of African cosmology to Western capitalistic thinking' (p 49). This type of mindset is associated with subsistence farming and 'barter economy'. Tradition keeps this communalistic type of society functioning: 'If the African society wishes to survive, it will have to move away from the traditional way of thinking on farming' (p 76).

The European and African mindsets are thus diametrically opposed – but there is a third mindset which, while deriving from 'western' Marxist theory, has become intertwined with the African mindset during the crucial struggle phase, i.e. the Socialist mindset, which posits landowners and exploiters and landless as exploited.<sup>12</sup> According to this view, violent struggle would be a legitimate way of rectifying an unjust system. Moolman does note, however, that this mindset, with its emphasis on contradiction and confrontation, is opposed to the 'consensus' values of the African mindset; it is also inimical to the demands of the world economy (p 75-76).

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<sup>12</sup> This would presumably coincide with Marx's 'feudal mode of production'; see McLellan D *The Thought of Karl Marx* (London: The Macmillan Press, 1971).

The struggle over the land, Moolman argues, has already begun, and is manifested in farm attacks. Referring to events in Zimbabwe where, in 2000, the invasion of white farms was starting to gain momentum, and to press reports of similar threats in two South African provinces (KwaZulu-Natal and Mpumalanga), he cites a warning arising out of research on land policy in other developing countries,<sup>13</sup> that ‘if the redistribution of land does not progress fast enough, international experience and research indicates that the disappointed masses will view invasion of land as the only effective solution’ (p 70-71).

Moolman supports his arguments about continuing struggles around land by citing submissions to the Truth and Reconciliation Committee by especially the Pan African Congress (PAC) and Azanian People’s Liberation Army (APLA), which, he suggests, were conspicuous for their lack of remorse for the attacks on civilians and farmers during the liberation struggle. He also refers to post-1994 speeches, including in Parliament, by ANC and PAC politicians concerning the theft of land by whites. He notes, too, that during farm attacks ‘in many cases one or both parents are being tortured or killed in front of their children’ (but examples are not given), and cites reports of political utterances at crime scenes, and allegations of PAC plotting, mentioned in NICOC reports. Why, he asks, are the thousands of black-owned shops in rural areas not subject to such attacks?

Amongst the numerous concluding recommendations, many of which deal with the security of farmers, is the exhortation that the Government should speed up the land distribution process and work to improve ‘racial perceptions and relations’ (p 182-184).

#### *A critique of Moolman’s arguments.*

Firstly, it must be stressed, Moolman’s monograph is a very important contribution to debates around farm attacks, highlighting as it does the crucial factor of land redress in South Africa. The present criticism is based not on the logic of his argument – for the inferences he draws flow logically from the sources he cites – but on the *sources* themselves. Furthermore, in scientific enquiry it is accepted that the value of a hypothesis (such as that put forward by Moolman) lies not in whether it is right or wrong, but in the debates it generates and the further research and understanding of issues to which it leads – criteria which this monograph meets admirably.

This work draws heavily on inferences drawn from statistics which are not necessarily reliable, as well as unsubstantiated generalizations in reports by agencies such as NICOC and CIAC. However, since the premises on which Moolman’s mindset theory rests are accepted uncritically by a significant sector of South African society (e.g. the memorandum compiled by Action Stop Farm Attacks referred to below) it is crucial that they be subject to close scrutiny and evaluation.

Moolman notes, quite correctly (e.g. p 2 and 18) that the ‘separateness’ of apartheid extended to social isolation, and lack of communication, between people of different race groups. Since politics pervaded South African society, there were also important intra-racial divides, especially in academia. This divide was conspicuous in anthropology, from which Moolman

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<sup>13</sup> Van Zyl J., Kirsten J. and Binswanger H.P. *Agricultural land reform in South Africa: Policies, markets and mechanism* (Oxford University Press, Cape Town 1996) p 94

draws extensively in order to build his argument about an ‘African’ mindset. Of importance here was the split between anthropologists at English medium universities and anthropologists from most (but not all) Afrikaans-speaking universities in 1980, over academic support for, and legitimization of, apartheid by a number of Afrikaans-speaking anthropologists. Social scientists in the latter category found themselves largely cut adrift from international disciplinary debates. This rift was healed only comparatively recently.<sup>14</sup>

It is unfortunate that much of the academic literature cited by Moolman is outdated and/or the subject of heavy criticism within the discipline itself. (Credo Mutwa, for example, although a successful and talented author, is not universally considered a credible source in academic writing about contemporary South African society.) Furthermore, the ‘structural functional’ study of ‘tribes’ in the period 1920s to 1950s has convincingly been shown to have played into the hands of colonialism by artificially isolating these units from the economic and political context of which they were an integral part.<sup>15</sup>

At the heart of a great deal of misunderstanding about the nature of society in Africa is the concept ‘culture’. Culture is not a ‘thing’ which has any existence of its own; it is simply a label for what anthropologists have observed people have in common and, in recent years, definitions have focused on ideas and understandings (knowledge, beliefs, norms, values) about the world which are shared by a group of people. There has, unfortunately, been a tendency amongst some anthropologists in South Africa to conflate *culture* (which is learned) with *race* (which is genetic). This theoretical approach is known as *ethnos theory*, which has its roots in the scientific racism of 19<sup>th</sup> century, and was dominant in pre-World War II Germany where some South African anthropologists studied. This view of culture, which was supported by a number of influential Afrikaans-speaking academics during the apartheid era, and which was used to justify ‘separate development’, receives no support whatsoever from mainstream social science anywhere in the world. Culture itself is learned in the process of socialization, and is always highly variable, since within a particular society people may differ in their interpretations of norms, values etc, with socio-economic status (class) being a significant factor in intra-societal differences. Culture also changes constantly as new ideas, technologies, etc, are introduced.<sup>16</sup>

Furthermore, for some time now, but especially during the past two decades, a vast body of research has significantly altered earlier perspectives on the nature of indigenous African society, including in South Africa. Some examples of this thinking are as follows:

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<sup>14</sup> West M. ‘Anthropology in a divided society’ (Inaugural Lecture, University of Cape Town, 1980); Sharp J. *Anthropology in South Africa* (Royal Anthropological Institute, 1980) p 36

<sup>15</sup> See, for example, Asad T. (ed) *Anthropology and the colonial encounter* (Ithaca press. London. 1973); Vail L. (ed) *The creation of tribalism in Southern Africa* (London 1989); Skalnik ‘Tribe as a colonial category’ in Boonzaier E. and Sharp J. *South African Keywords* (David Philip, Cape Town, 1988)

<sup>16</sup> See Swartz M. J. and Jordan D.K. *Culture: The Anthropological Perspective* (John Wiley and Sons, New York, 1980) Chapter 2; Lye W. and Murray C. *Transformations on the Highveld* (David Philip, Cape Town, 1980) Chapter 1. For an example of the tendency to conflate race and culture see Coertze P J *Inleiding tot die algemene volkekunde* (Voortrekker Press, Johannesburg) and the critique of this position by Sharp J. ‘Ethnic group and nation’ in *South African Keywords* (1988). For a critique of the way in which ‘culture’ was used to justify apartheid see Sharp J. ‘Anthropology in South Africa’ (in *Journal of the Royal Anthropological Institute*)

- ‘Tribes’ as supposedly fixed and bounded units were largely creations of colonialism used for, amongst other things, purposes of administering subject populations more effectively.<sup>17</sup>
- The nature of traditional leadership (which did not exist in many African societies possessing alternative political institutions) was transformed by colonialism. A chief became a cog in the colonial (and, in South Africa, apartheid) bureaucratic administration, responsible to politicians and not to his (most were men) constituencies, i.e. no longer ‘a chief by his people.’<sup>18</sup> In all societies tradition itself is never static but dynamic and constantly changing. However, conservative politicians often appeal to ‘tradition’ to try to validate their own (undemocratic) claims to political office.<sup>19</sup>
- People in Africa, as elsewhere, engage in what anthropologists term ‘situational selection’, i.e. drawing on different sets of ‘cultural’ ideas (in the sense of shared understandings) in their daily lives. For example, in South Africa the religious observations of many black people comfortably combine devout Christianity and ancestral veneration.<sup>20</sup>
- It is a myth that black farmers only arrived in the Southern African region around the 16<sup>th</sup> and 17<sup>th</sup> centuries. Quite apart from recent work by historians, including those focusing on oral history, there is a growing body of archaeological evidence about the antiquity of arming communities in the sub-continent, including evidence that such activities were taking place in what is now KwaZulu-Natal almost two thousand years ago.<sup>21</sup>

Central to Moolman’s argument is the assumption that there is an inherent contradiction between African cultural beliefs and capitalism.<sup>22</sup> There is a considerable body of literature, however, which demonstrates that this assumption is false. In the Eastern Cape, for example, a relatively prosperous class of peasant farmers supplied food for the market in the mid nineteenth century, until the British colonial government intervened. Not wishing to disadvantage white settlers, and needing cheap labour for white farms and, by the 1860s and 1870s, the mines, it took steps to discourage black farmers (through e.g. punitive land acts and taxes) and to promote white farming through the provision of infrastructure, capital, transport networks and markets. In what is now Lesotho, too, described as the ‘granary of Africa’ in the mid nineteenth century, the strategic development of roads, markets and other infrastructure benefiting South Africa after the discovery of minerals was to turn this land-locked country into a labour reservoir for the mines.<sup>23</sup> While these examples refer specifically to South Africa, there is a great deal of research which shows that, all over the continent, black Africans have responded positively to market incentives, often - given the vagaries of world markets - to the

<sup>17</sup> See references in footnote 12 above.

<sup>18</sup> See, for example, Comaroff J. ‘Rules and Rulers: political process in a Tswana chiefdom’ (in *Man* 13, 1978, p 1-20; Beattie J. ‘Checks on the abuse of political power in some African societies’ in Beattie J, Cohen R. and Middleton J. (eds) *Comparative Political Systems* (1967); Spiegel A. and Boonzaaier E. ‘South African past’ in *South African Keywords*

<sup>19</sup> See Ranger T. ‘The invention of tradition in colonial Africa’ in Hobsbawm E and T Ranger (eds) *The Invention of Tradition* (Cambridge University Press, 1983).

<sup>20</sup> Mitchell J. C. *Tribalism and the Plural Society* (Oxford, 1960); Epstein A. L. *Ethos and Identity: three studies in ethnicity* (Tavistock, London, 1978)

<sup>21</sup> Inskeep R. *The Peopling of Southern Africa* (David Philip, Cape Town, 1978); Hall M. *The changing past: Farmers, kings and traders in Southern Africa 200-1860* (David Philip, Cape Town, 1987)

<sup>22</sup> The same assumption is made in the work of Van de Graaf and Jordaan reviewed below.

<sup>23</sup> Bundy C. *The rise and fall of the South African peasantry* Berkeley (University of California Press, 1979); Lipton M. ‘South Africa: Two agricultures’ in Wilson F., Kooy D. and Hendrie D. (eds) *Farm Labour in South Africa* (David Philip, Cape Town, 1977); Murray C. *Families Divided: The impact of migrant labour in Lesotho* (Ravan Press, Johannesburg, 1981)

detriment of crops grown for home consumption.<sup>24</sup> Nor is there any evidence that the 'socialist' mindset to which Moolman and others refer has taken a firm hold: Although socialist-type rhetoric may be employed, research suggests that capitalist rather than socialist values dominate.<sup>25</sup>

However, despite these criticisms it is important to stress the changing nature of culture in response to changing economic, political and environmental constraints. After over a century of colonial and apartheid land policies, with the accompanying overcrowding and underdevelopment of reserve and homeland areas, a situation which approximates what is described as a 'traditional African' approach to land obtains, especially in terms of overgrazing and land degradation. However, this situation is fully explicable if the broader socio-economic and political context - rather than anything inherent in African culture - is taken into account.

Finally, the issue of what constitutes 'African' philosophy is the subject of continuing academic debate, with allegations by, amongst others, black African scholars that many of the views popularly projected as 'African' are, in fact, Eurocentric in origin.<sup>26</sup> Also fiercely contested is the subject of African identity. An important contributor to this debate is Ghanaian Kwame Appiah, author of the highly acclaimed book *In my father's house*, who argues that Pan Africanism, which equated Africanism with skin colour, stemmed not from Africans themselves but from European colonialism.<sup>27</sup> A particularly acrimonious Internet exchange between Nobel literature laureate, Nigerian Wole Soyinka, and prominent academic, author, and producer of BBC series 'The Africans', Kenyan-born Ali Mazrui, is illustrative of the lack of consensus on what constitutes 'Africanness'.<sup>28</sup>

### **Action Stop Farm Attacks: A memorandum on farm attacks and the implications thereof to commercial food production and agriculture in South Africa. (7 November 2000)**

This memorandum, including an addendum, which was compiled by the umbrella organization Action Stop Farm Attacks in 2000, also posits a possible link between farm killings and land, and presents arguments similar to those advanced by Moolman. It was compiled to draw the 'disastrous consequences of the continuous farm attacks and murders in the farming community', to the attention of the international community. Its arguments rest on statistics from police reports referred to above, as well as those provided by the Transvaal Agricultural Union. Despite a reported decline in murders in South Africa during the previous five years, these statistics showed a staggering increase in attacks during the first four months of 1998, as compared with earlier averages.

In the addendum (p 9) certain inferences are drawn from the statistical data: Firstly, the figures suggested that a white commercial farmer in South Africa has a '1 in 100' chance of being murdered in the next four years' (i.e. after 2000). Many more were likely to be injured.

<sup>24</sup> See, for example, the Saul chapter in Martin and O'Meara (eds) *Africa* (2<sup>nd</sup> ed, 1995)

<sup>25</sup> A research-based critique of the posited existence of a 'working class culture' is contained in De Haas M. 'Of Joints and Jollers' in Preston-Whyte E. and Rogerson C. (eds) *South Africa's Informal Economy* (Oxford University Press, Cape Town, 1991)

<sup>26</sup> See, for example, Mudimbe V. *The Idea of Africa* London (James Currey Press, 1994)

<sup>27</sup> Appiah K.A. *In My Father's House: Africa in the Philosophy of Culture* (Methuen, London, 1992)

<sup>28</sup> [www.westafricareview.com/war/index.htm](http://www.westafricareview.com/war/index.htm)

This conclusion was based on the fact that, according to Statistics South Africa, the country had 57 980 commercial farming units. Between 1991 and 1999 there had been 898 farm murders, so at least two farmers were murdered every week. During these nine years there had been 4 604 attacks on farms, so a large number of farmers had also been injured. Thus, it is concluded that the probability of a commercial farmer in South Africa being either murdered or injured during the next nine years was 7,9%. Farmers were thus at a far higher risk than any other category of civilians. (The argument is faulty in that in terms of the definition of farm attacks the victims also include persons other than white commercial farmers.)

The framework adopted by the memorandum is 'geo-political', and the perspective is described as 'multi-disciplinary' (p 1). The disjointed and sometimes repetitive nature of the paper suggests that it was written by more than one person. Most of the material is drawn from earlier reports and publications. Since descriptions of the nature of farm attacks, perceptions about attacks, possible motives, and the statistics used, are essentially the same as contained in earlier literature discussed above, such as Moolman's work, this summary will focus primarily on the central theme of the memorandum, viz. the relationship between different 'mindsets' and approaches to the use of land, and the way in which the land question is inextricably linked to farm attacks, which is encapsulated in the conclusion (p 7) that 'the land reform issue may be directly connected to the killing of those who oppose the sharing of the land or the desertion of commercial farms'.

In outlining the geo-political context in which attacks occurred, the historical background of colonization is described, by drawing on historically inaccurate and discredited explanations of settlement patterns of 'Bantu'<sup>29</sup>, which assert that colonization by white and black settlers in South Africa occurred contemporaneously. The alienation of land, it continues, was forbidden, and this was written into the laws of the colonial governments and those of the Boer Republics of the Free State and Transvaal, an approach which was incorporated into the Natives Land Act of 1913.

This sweeping assertion concerning land, like that positing simultaneous settlement by blacks and whites, is a gross oversimplification of a far more complex position: In the nineteenth century, the policies of the two British colonies (Cape and Natal) differed from those of the two Boer Republics (Transvaal and Orange Free State). In the British colonies blacks could purchase land until 1913, and special 'reserves' were set aside for their occupation. In the Boer republics, the white farmers often took over land (sometimes with permissions of chiefs) on which blacks were already living; the black residents might then pay the farmer a form of rent through labour or the provision of part of their crops (the 'share cropping' relationship). In the Boer republics it was virtually impossible for blacks to own land, and very little was set aside for their use in the form of 'reserves'.<sup>30</sup>

The argument advanced in the memorandum is that colonization brought together two separate socio-cultural groupings, characterized by Afro-centric and Euro-centric mindsets whose differing approaches to land became integral to the liberation struggle, in the course of which the Socialist mindset (with its dichotomy of exploitative landowners versus the exploited landless) became integral to the political agenda. Given the 'communalistic' nature of this overlapping (African and socialist) mindset, and African values, this agenda emphasizes the

<sup>29</sup> As used in English this term is of relevance only in the classification of languages in Africa

<sup>30</sup> Platsky L and Walker C. *The Surplus People : Forced removals in South Africa* (Ravan Press, Johannesburg, 1985) Chapter 4

redistribution of land at the expense of its productivity, which has ominous economic implications, for '(n)either Africa nor Socialism has made any significant contribution to the world economy' (p 6). Furthermore, the 'struggle mentality' which marks this position is inimical to the demands of the world economy, which emphasizes 'productivity, quality, timely delivery, competitive cost structure and product diversity' – summed up as 'expertise and effective management' – a concept not 'fully understood' by those with 'traditional African and/or Socialist mindsets' (p 6).

The issue, the memorandum stresses, is not simply land distribution, but *reform*, in the sense that there is an 'all-inclusive policy aimed at restructuring of land through the elimination of large and medium properties', i.e. a reversion to smaller portions of land supporting families or collectivities as opposed to large commercial farming activities. Reference is made to examples of (presumably similar) land reform programmes found in Latin America, East Asia and Africa (p 7).

Once again these distorted, inaccurate stereotypes of black farmers are used to argue that 'reform' as presently constituted cannot take place because African culture is an obstacle to large-scale commercial farming – an argument that completely ignores the published work referred to above. The paper's conclusions about the link between struggles over land reform and farm attacks are reinforced by reference to factors mentioned in other literature summarized above, including the alleged 'military precision' of attacks, the 'hatred' inferred from testimony heard by the Truth and Reconciliation Committee, the ready availability of automatic and semi-automatic weapons linked to the liberation struggle, and the expertise of many hundreds of 'soldiers' in that struggle who had been integrated into, and then discharged from the SANDF (p 8-11). Furthermore, it argues, the violence, although spreading elsewhere, was mainly seen in the most productive, northern and eastern, regions of the country (p 10). Also provided, by way of substantiation, is a breakdown, per province, of farm attacks and land claims lodged with the Department of Land Affairs (in the 1997-1999 period). In the seven provinces with the highest number of *rural* land claims (relative to urban claims), there is, the memorandum argues, a correlation of 0.893 between farm attacks and total land claims. 'As the number of land claims increases in a province so does the farm attacks' (Addendum p 9.) (It should perhaps be noted that a correlation, whilst suggestive, does not necessarily mean that there is any *causal* relationship between two variables, such as land claims and farm attacks.)

After pointing (p 11) to the serious implications of the attacks for the country's food production – including loss of jobs, technological expertise, mounting debts and deteriorating inter-racial relationships - the memorandum suggests that, since the Government appears unable to protect them, farmers should be 'self sufficient in a supportive and resilient way' in taking care of their own future'.

This 'new role of commercial agriculture' (p 12-13) would involve not only the use of expertise to sustain viable food production, but also the stabilization of the situation either with or without the security forces. It would also involve being a 'bridgehead' in rural development programmes around food production, and in preventing the degradation of rural infrastructure. Commercial agriculture is seen as the 'kingpin for the implementation of foreign development programmes' wishing to prevent disease, hunger and malnutrition 'in certain regions of Africa'. It should be based on 'the maintenance of an equilibrium between the Euro-centric approach towards soil and production and the Afro-centric concept of land'.

It was to these ends that Action: Stop farm attacks was seeking international co-operation to prevent the devastating consequences resulting from the destabilization of commercial agriculture and the farming community' (p 13).

**Van de Graaf H. and Jordaan C.L.: Property Rights in South Africa (Transvaal Agricultural Union, 1999)**

The publication *Property Rights in South Africa* is a compilation of presentations at an International Conference on Property Rights held in South Africa in March 1999, and was commissioned by the Transvaal Agricultural Union. The conference was organized by the TAU and the Agricultural Employers Union (AEO), an organization formed in 1990 and chaired by Mr. Werner Weber. In addition to presentations on land reform in Brazil, the Philippines, Colombia, Sub-Saharan Africa and South Africa, there are also chapters giving perspectives on this issue by a strategist, an anthropologist and a criminologist. The focus is not on rural and farm land exclusively, but is also intended to address issues relating to land in urban areas (p 50-53). Land belonging to churches is also seen to be vulnerable to possible state intervention, and there is a strong pro-Christian, anti-socialist theme to the book, epitomized by Schmieder (p 54), who talks about defending South Africans 'against the ravages of socialist confiscatory land reform', and against the socialists who 'are always lurking in the shadows'. It is clear from the introductory section that, in addition to the organizers of the conference (TAE and AEO), a conservative international Christian organization called Tradition, Family and Property (TFP) played an important role in this conference, and a number of the speakers are affiliated to it. A brief and critical overview of contents of this book of the greatest salience to the work of the Committee follows.

The first section is devoted to an historical overview of land occupation and property rights in South Africa, given by Prof R D Coertze (p 6-45), former head of Anthropology and Archaeology at the University of Pretoria who, together with his father, was the most prominent proponent of 'ethnos' theory. Drawing attention to relevant sections of South Africa's constitution and arguing that 'the aim of a general reform of property rights is left to the inconstancy of the ruling politicians' (p 7), Coertze stresses the crucial role of 'knowledge of the history of land occupation and the movement of different groups' in debating ownership and the right to occupy land. He proceeds to provide a detailed (if somewhat selective) description of historical settlement patterns of black horticulturalists and farmers in the various regions of the country. He also provides (p 10-12) breakdowns of land allocated to blacks in terms of the 1913 and 1936 land legislation, as well as the total area which the 1953 Tomlinson Commission<sup>31</sup> had estimated was still to be transferred to blacks. Referring to the Tomlinson report, he argues that 1986 'all the land determined by the quota for each province had been bought'.

A detailed critique of Coertze's account of historical processes is beyond the scope of this report but, insofar as its relevance for debates around issues of land redress is concerned, it is seriously flawed. Firstly, it justifies the apartheid *status quo* by distorting history, ignoring the important archaeological and historical work showing the antiquity of black farming communities in South Africa. Secondly, in discussing various regions, it omits relatively

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<sup>31</sup> The Tomlinson Commission was appointed by the Nationalist Party Government in 1954 to 'investigate and plan the future of the South African [black-occupied] reserves' (Platsky L and C Walker, *op cit* p 112)

recent but crucial published work by historians on black societies in southern Africa.<sup>32</sup>, choosing instead to focus on outdated and discredited sources. Even more importantly, there is no discussion of the forced relocation of three to four million people during the homeland 'consolidation' period from the 1960s onwards which is, given the extent of the dispossession, of central importance in redressing past injustices.<sup>33</sup> Finally, although not stated explicitly, the inference (especially given the almost exclusive focus on black land occupation in the 19<sup>th</sup> century) is that blacks will not manage the land productively, in terms of 'western technology' (p 44) until such time as 'educating and reforming the people who must occupy, cultivate and conserve the land' is concerned. While it is true that education and training in farming techniques should be an important component of land reform programme, Coertze's failure to acknowledge the successes of black peasant farmers in the 19<sup>th</sup> century gives the impression that he, like Moolman cited above, sees black 'culture' as a stumbling block to reform.

There are common threads between TFP representatives from America (Steven Schmieder, Chapter 2) and Spain (Jose Medina, Chapter 6). Both draw on the works of TFP founder, Prof Plinio Coerrea de Oliveira (which works draw on biblical injunctions, Christian philosophers and papal encyclicals) to argue that 'the institution of private property is rooted in human nature and the Law of God' (Schmieder, p 56), and is a basic pillar of Christian civilization (Medina, p 91). A challenge to private property is equated with an onslaught on the sanctity of the family (p 57), and both authors urge vigilance, debate around, and defence of 'principles.....that are at the heart of the Christian Civilisation' (p 108). Railing against the evils of 'self-managing Socialism', a concept defined in the same volume by Jordaan (p 138), Medina laments that it remains alive and well in Europe, including in Spain, where TFP met with some success in opposing land reform in the Aragon region (p 102-3).

In similar vein is the contribution by the medical doctor and sociologist, Dr Carlos Picanco, (Chapter 3) on the 'disaster' of socialist land reform in Brazil, followed by an overview of the 'Bitter Fruits of Land Reform in the Phillipines', given by Bong Eublera, a banking expert on property rights and President of the St Thomas Aquinas Youth Association for a Christian Civilisation (Chapter 4). Included in this overview is a summary of the aims of the country's Comprehensive Agrarian Reform Program, introduced by the government of former president Corazon Aquino, with the view to promoting a more equitable access to land (p 80). Eublera argues that the goal is actually the abolition of private property. He links food shortages in the country to this agrarian reform programme, however, without producing any supporting evidence.

Chapter 5, by social scientist Andreas Louzao of Colombia, is on 'Political Violence and Land Reform' in his country. Two pages are devoted to events in Colombia, and two to those in Chile, where TFP have been active in opposing socialist attempts at land reform. In Colombia, he argues, it was the communists who started the violence in the 1960s and who were the first producers and distributors of narcotics. This allegation is factually inaccurate, since the country has a long history of producing and distributing narcotics.<sup>34</sup> In Chile, the 'leftist' government of Allende is said to have 'collapsed', which is a blatant distortion of the

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<sup>32</sup> Two of numerous publications not referred to, which deal with Zulu and Xhosa history, are Duminy A. and Guest B. (eds) *Natal and Zululand: From Earliest Times to 1910* (Shuter & Shooter, University of Natal Press, 1989); Peires J. B. *The House of Phalo* (Ravan Press, Johannesburg, 1981).

<sup>33</sup> Platsky L. and Walker C. *op cit*

<sup>34</sup> Partridge W. 'Uses and nonuses of anthropological data on drug abuse' in Eddy and Partridge (eds) *Applied Anthropology in America* (1978)

overthrow of his regime, and his murder and that of thousands of other Chileans, by the military dictatorship of branded war criminal General Augusto Pinochet.<sup>35</sup>

Land reform in Sub-Saharan Africa is the focus of Chapter 7, with Zimbabwean scientist, farmer, and one-time Director of the Commercial Farmers' Union, David Hasluc, providing an overview, illustrated with various statistics (p113 and 118) of the land reform process in Zimbabwe. He notes that, by 1998, serious concerns were being voiced, both in that country and abroad, over President Mugabe's proposed takeover of 5 million hectares of commercial farm land – which was linked by academic Robin Palmer to '(l)ack of funds, lack of planning, lack of capacity, lack of accountability.....'( p119). In suggesting a way forward, Hasluc suggests that land reform programmes in general should:

- integrate land reform into land and macro economic policy aimed at poverty reduction;
- involve wider consultation, including with civil society, taking into account donors' experience elsewhere;
- aim for gender representivity, including in the planning process;
- ensure efficient planning and implementation by a single agency to avoid bureaucratic overlap;
- be marked by 'transparent, fair and sustainable' implementation following due legal process; and
- lead to increased national agricultural input during the implementation of the reform policy.

In Chapter 8, labour lawyer and Director of Legal Services of one of the conference organizers, the Agricultural Employers' Organisation of South Africa (AEO), Philip du Toit, provides a legal perspective on Land Reform in South Africa, which takes into account relevant constitutional principles and the three pieces of post-1994 legislation relating to Labour Tenants, Occupiers, and Squatters, respectively.

Arguing that the Constitution 'places an onus on the Minister of Land Affairs to deal with redistribution, restitution and tender reform', Du Toit warns of the need to ensure that constitutional rights (farming and individual) are protected, especially given possible changes in legislation vesting administrative functions relating to land under the exclusive control of the Director-General of Land Affairs and his bureaucracy (p 124). If that happens, he warns, the State becomes 'investigator, prosecutor and adjudicator of its own case', sidelining the Land Claims Court. Already, he continues, owners facing land claims may be threatened, or have people squatting illegally on their land. In this regard the passing of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act in 1998 has favoured the illegal occupant at the expense of the owner of the property (p 126 and 130-1). People facing claims may also suffer financially for they cannot make improvements without permission of the Commissioner, and are unable to access loans from banks. Commissioners themselves may experience problems in separating legitimate claimants from those who do not comply with the provisions of the relevant Act.

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<sup>35</sup> Sane P: *Steps to protection: The Dublin Platform for human rights defenders*. (Dublin Castle, Dublin, 2002). Pierre Sane, a former secretary-general of Amnesty International is now Assistant Secretary-General of UNESCO for Human and Social Sciences

After giving a brief description of the three Acts which govern land reform (the Labour Tenants Act, No 3 of 1996; the Occupiers (Extension of Security of Tenure) Act, No 62, of 1997 and the Prevention of Illegal Eviction from and Unlawful Occupation of Land) Act No 19 of 1998), *Du Toit* argues that not only are they open to abuse, but they are not ‘laws which meet the limitation criteria contained in Section 36(1) of the Constitution’<sup>36</sup>.

*Du Toit* concludes with a warning of possible adverse consequences of government policy, such as

- the destruction of the rural economy;
- fostering ‘animosity’ through interference in labour matters;
- impacting negatively on employment in rural areas – with all the attendant consequences;
- undermining the ability of farmers to compete successfully in international markets;
- creating ‘legal uncertainty’ through laws concerning property rights, and placing legal constraints on people selling property;
- the squandering of tax payers’ money;
- interference in matters which fall within the ambit of courts; and
- placing a financial burden on land owners.

Section C, ‘Perspectives on the Land Reform Program’, starts (Chapter 9) with a ‘Strategic Perspective’ by geo-strategist and generalist, Dr Chris Jordaan, and three panel members, (Gen George Meiring, Lt Gen Koos Bisschoff and Dr Jaap Meijer whose input is noted in the suggested Strategy with which the chapter concludes. Dr Jordaan prefaces his discussion with a specific reference to the ‘uncertain conditions in the agricultural environment...characterized by the murders on farmers, the occupation of agricultural land, and the judicial and constitutional pressure applied to landownership’ (p136). Extremely brief overviews of land reform in four Latin American countries - El Salvador (early 1980s), Chile (1960s to 1973), Peru (1960s) and Mexico (1915-1970) - are provided (p 139-141). The consequences of this ‘self-managing socialism’ (p 142-144), it is argued, were ‘disastrous’ (p138), with studies in other countries, such as Japan, India and Pakistan, showing the positive effects of private agricultural production (p 141).

Turning to the South African situation, the ideals of the Freedom Charter, it is averred, were written into the country’s constitution (specifically Chapter 2 Section 25), and are the driving forces behind the country’s land reform policy, which is based on myths such as that white farmers have all the land. (Eight ‘myths’ are listed, p 146-7). The real aim, however (disguised by ‘revolutionary psychological warfare’) was to gain support for the type of land reform idealized by ‘Socialists and Communists in different countries and continents’ (p 146).

The lessons learned from two African examples of the implementation of such policy – Zimbabwe and Mozambique – should not be lost on South Africans, and a comprehensive strategy based on Christian principles should be formulated, bearing in mind the long term economic problems created by land reform. (These are detailed on p 149 and are essentially the same as those listed by *Du Toit*, referred to above.) The threat is perceived (according to

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<sup>36</sup> This section details circumstances under which entrenched rights may, when ‘reasonable and justifiable in an open and democratic society’, be limited.

Gen George Meiring) as a Total Onslaught ('the onslaught is a total threat to the whole way of life of the farming community') from those with an ideological standpoint of Self-Managing Socialism and Liberation Theology, to which the murder of farmers is linked. Land reform intensifies this threat, and the 'largest and most comprehensive support must be activated at national and transnational levels' (p 149).

There is also a suggestion (with input by Lt Gen Bisschoff) that farmers have the land base, the expertise (both technological and managerial) as well as the ability to access 'timely and accurate strategic intelligence' to form a considerable and credible power bloc, locally, nationally and transnationally, in order to stand united, apolitically, against 'the threat against property rights and unjust agrarian reform'. It is further suggested, citing 'strategic elements' indicated by the head of AEO legal services, Du Toit, that the approach should include 'coercive law enforcement', the use of legal mechanisms, and the exploitation of weaknesses in the Government's programmes (p 150-1). TAU and AEO are exhorted to make 'a strategy to combat the ill effects of land reform and specifically the onslaught on the land and property right of the South African farmer, and more precisely the "Afrikanerboer"... the highest priority' (p 151).

Chapter 10 presents another anthropological perspective by Prof Frik de Beer, Prof L P Vorster (both of UNSIA) and Prof R D Coertze (the author of the first section, p 6-45, summarized above). Referring to the various presentations made about the socialist onslaught conflicting with biblical injunctions, they indicate their concurrence 'with the validity of this general philosophical pronouncement on private property', recommending that the four main Afrikaans Reformed Protestant churches add their endorsement.

Exhorting TAU and AEO to monitor land reform and the training of new landowners, they refer to the Ujamaa system in Tanzania as an example of failed socialist-driven land utilization (p 154; see also p 158), and point to the 'conflict potential between the values of the socialist system and that of Africa'. By way of example, they cite the supposed African tendency to 'respect.... a leader rather than .... the underlying principles he represents' and assert that there may be chaos when a traditional leader dies, because 'there is no guaranteed adherence to common values and principles in the total community'. This is an astonishing assertion, since there is a vast body of anthropological literature which shows that in African societies which are centralized under a chief or king, there is a body of norms governing, amongst other things, succession to chiefship.<sup>37</sup>

After repeating some of the points made in the earlier presentation by Coertze concerning the history of land distribution in South Africa, the authors turn to the question of 'Agricultural productivity in Africa' (p 156), citing a work published in 1965 which avers that, 'the 'Zambian population had by 1920 exceeded the sustainable carrying capacity if the traditional agricultural methods remain in use' (a sentence which is not clear), and then claim, without providing any substantiation, that '(a)ll indications are that this data could also be applicable to South Africa' (p 156). This assertion, too, is astonishing, given the ready availability of anthropological studies which demonstrate how people in many African countries make optimal use of their land, including through the use of simple technology, and manage to feed themselves comfortably.

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<sup>37</sup> See footnote ?? above for references concerning chiefship

Continuing in the same vein, the authors make a number of points which, in one way or another, promote the outdated and paternalistic stereotypes of ‘traditional’ black people, and to which the same criticisms as leveled against Moolman apply.<sup>38</sup> Whilst the authors are correct in maintaining that land in tribal areas is not ‘owned’ in the western sense of the word, their comments about traditional leaders and their councils controlling the land, and the communal nature of tribal land having an adverse effect on productivity, tends to oversimplify a far more complex situation.<sup>39</sup>

Their treatment of Africans’ fear of witchcraft (p 158) is also superficial. This fear and acceptance of the influence of magic, which they claim (erroneously, since similar beliefs are found in all societies) is unknown to Westerners, may lead to instability and fear if ‘unrelated strangers’ have to live together in agri-villages. Again, there is a considerable body of literature which shows that witchcraft allegations are often made not against strangers, but against people with whom there is a close relationship.<sup>40</sup> In the context of the supposed close identification with the land of those living on it, and the deceased members of their family, it is asserted that ‘land should be accessible to all’, so fences are unpopular, which overlooks the well-established fact that, in the past, family homesteads formed distinct territorial units on their own.

The authors conclude by pointing to the failure of the Constitution to distinguish between ‘Western private freehold’ and ‘occupational right arising from long standing residence’ and rights arising from traditional expectations of land occupancy. They recommend, amongst other things, propagating the settlement of farm workers elsewhere to prevent their claiming vested rights in land where they are, reducing the numbers of farm labourers, and developing a country-wide strategy on land reform which addresses the ‘factual realities’ of farm workers and the ‘extent of violence against White farmers’ (p 160).

The final chapter is a summary of Moolman’s research report on farm attacks, referred to above. Concluding comments by Mr Willie Lewies, Chairman of the Labour and Land Affairs Committee of TAU, refers to the problems his organization had experienced from the 1980s in drawing their concerns about the impending ‘attack on white farmers and especially on their property rights’ to the attention of the former Government and SAAU, (who, he alleges on p 199, perceive them as ‘rightwing farmers’). His organization had also, unsuccessfully, opposed the RSA Constitution in the Constitutional Court, and the handling of land claims. The conference, he notes, is seen as the beginning of a ‘more balanced debate as it highlights the legitimate claims of the farmer on the one hand and on the other the political agenda of the onslaught’, to which ‘a further increase in farm murders and crime in rural areas’, the negative economic implications of land distribution and illegal occupation, and even the possible promotion of ‘foreign self interests’ are linked (p 200).

In summary:

- The book’s unifying theme is a religious exhortation to defend Christianity against the onslaught of socialism as it relates to land rights. Private property is seen as having biblical sanction.

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<sup>38</sup> See p 237.

<sup>39</sup> See submissions of Prof P. Zulu, p 217.

<sup>40</sup> See Marwick (ed) *Witchcraft* (Penguin, 1970)

- Most of the comparative material referred to do not indicate thorough academic research; it is sketchy and there are few if any relevant references. At best it is a very partial and grossly oversimplified picture of extremely complex processes in countries such as Chile, Brazil and Colombia.
- Most of the anthropological material is inaccurate or outdated.
- The chapters on land reform in South Africa and Zimbabwe are relevant.

Irrespective of the criticisms expressed above, serious cognizance must be taken of the views expressed in this book for they represent those of many members of the farming community.

**Van Vuuren W: Racial politics and land reform (Political Issues, Vol 11 No 7, July 2001)**

An academic paper incorporating more recent developments relating to land in South Africa was compiled by Prof Willem van Vuuren of the Stellenbosch Institute for Futures Research. This paper looks at racial and class factors which impact upon the present Government's attempts to address land issues through restitution, tenure reform, and the purchase of available land, in the context of land invasions in South Africa (mentioning, specifically, Bredell in Gauteng and Macassar in the Western Cape), and the seizure of white-owned land in Zimbabwe.

Whilst there is acknowledgment of differences in the approaches to the land question by the ANC, which accepts the nonracial nature of land ownership embodied in the Freedom Charter, and the PAC, with its emphasis on exclusive African (black) ownership, there is also, Van Vuuren argues, agreement that indigenous people had been 'robbed of their birthright' and were the victims of injustice and inequality. Citing Mutisya, the author notes the 'inalienable and sacred' right to land, and its link to both living and dead, in pre-colonial Africa. The 'intense emotions' around land shared by Africans cannot, it is argued, be ignored.

With reference to relevant research, Van Vuuren notes that, despite its centrality to the liberation struggle, the pace of land reform in Zimbabwe, marked by favouritism and patronage, had been slow. Contrary to expectations engendered at the time of Independence, it was largely the black capitalist class (some of whom were linked to State and ruling party) who had benefited, at the expense of large numbers of the rural poor. By the beginning of 2000 hundreds of white-owned farms were being occupied by 'war veterans', with demands that they be given, without compensation, to landless blacks.

The Africanist approach, exemplified by these events in Zimbabwe, was further emphasized in the rhetoric of Libyan leader Ghaddafi during his visit to that country. Although, historically, there have been proponents of this view in the ANC in South Africa, the Freedom Charter makes it clear that land ownership is not linked to race, a position reiterated more recently by former president Nelson Mandela.

The author continues that the class factor should not be overlooked, since Africanism may be used to cloak the interests of black capitalists, as in recent events in Zimbabwe where, following independence, members of the new black bourgeoisie reportedly argued, in their own interests, against land redistribution and for a 'productivist' approach (i.e. large scale commercial farming) as opposed to small scale peasant farming policy. More recently, it has become politically expedient to target white farmers, a move which (presumably) garners

black political support while obscuring the role of black capitalist interests. Warnings have already been sounded, Van Vuuren continues, citing a warning by a National Land Committee representative, of a similar move in South Africa to prioritize the growth of black commercial farming, at the expense of the landless poor: 'In a pre-election manifesto the ANC promised to redistribute 30% of agricultural land in its first five years in government. The reality is that it has distributed less than 2% in that period'.

Bearing in mind events in Zimbabwe after 20 years of marginalization of the landless poor, Van Vuuren suggests that accommodation of a similar stratum of poor in South Africa is not a high priority with the Government, which has set aside less than 1% of the national budget for land redistribution. Although it has dealt decisively with illegal squatting (in Bredell), it is likely that similar pressure will continue to be exerted by people who have nothing to lose. Here the author cites an example of 'black voices' already calling for the scrapping of constitutionally-entrenched policy concerning 'willing buyer, willing seller' (i.e. expropriation) if the government cannot afford to implement this policy. Van Vuuren argues that this 'is a move which could well place us on the racially disastrous Zimbabwean route to land reform', and the lessons of Zimbabwe should serve to ensure commitment of resources (state and private) to well-planned and effective land reform.

## **RELATIONSHIPS BETWEEN FARMERS AND FARM WORKERS**

In the literature referred to above, the subject of relationships between farmers and workers periodically receives mention, specifically in connection with its possible relationship with attacks carried out against farmers. Two pieces of research have recently been published which, having different foci, present differing perspectives on this relationship, i.e. a 1998 report by academics R. W. Johnson and L. Schlemmer entitled 'Farmers and Farmworkers in KwaZulu-Natal', and a 2001 report by international human rights organization Human Rights Watch. 'Unequal Protection: The State Response to Violent Crime on South African Farms'.<sup>41</sup>

At first glance the findings of these two reports appear diametrically opposed, but on closer inspection their findings are not irreconcilable, since the objectives of the research, and the questions which were accordingly asked, were very different. Reference will also be made to the criticism and, especially, with regard to the Human Rights Watch report, controversy these publications have generated.

### **Johnson RW and L Schlemmer: Farmers and Farmworkers in KwaZulu-Natal. (1998, Helen Suzman Foundation)**

The Johnson and Schlemmer report was commissioned in 1996 by what was then the Natal Agricultural Union (NAU), which subsequently changed its name and is now known as Kwanalu. The aim of the research was to study relationships between commercial farmers and farm workers in the province of KwaZulu-Natal. Designed and authored by political scientist

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<sup>41</sup> Johnson R W and Schlemmer L. *Farmers and Farmworkers in KwaZulu-Natal* (Report produced by the Helen Suzman Foundation for the KwaZulu-Natal Agricultural Union, 1998) ; Human Rights Watch *Unequal Protection: The State Response to Violent Crime on South African Farms* (2001)

R W Johnson of the Helen Suzman Foundation, and veteran social scientist Prof Lawrence Schlemmer, the survey on which the findings draw was carried out by MarkData.

Working with data about farmers in the province provided by kwaNalu, to which, it was estimated, the majority of farmers in KZN were affiliated, a random sample was drawn and detailed interviews in the home languages of the interviewees were carried out with both farmers and farm workers. Despite the research being carried out for their Association, the authors note (p 10) that many farmers were reluctant to answer questions, and were particularly resistant to workers being interviewed. The random nature of the sampling allowed the authors to generalize their findings to farmers in the province as a whole, although the area that used to be termed 'Zululand', north of the Tugela river, was excluded from the sampling. The authors acknowledge that major forestry and sugar associations from that area were not included in the research, both types of cultivation were, to some extent, included in their sample, since sugar cane farming and timber plantations occur in other regions of the province as well. Another drawback of their study, acknowledged by the authors, was its inability to draw in trade unions; however, as they correctly note, there is very little unionization amongst workers and they estimate that 95% of workers are not unionized.

The context in which the research was carried out and written up (1997-8) was one of growing alarm on the part of farmers about the perceived escalation of farm attacks. In this regard, the report refers to CIMC figures regarding attacks, as well as to a report commissioned by the Forestry Owners' Association (FOA), published in July 1997, which found that, of the three regions researched (in the provinces of the then Cape, Transvaal and Natal), the situation in Natal was the worst in terms of incidents of violence (p 8).

Another factor causing unease among farmers at the time of the survey was land-related legislation, in the form of the Labour Tenants Act of 1996, which granted second generation labour tenants the right to purchase land and housing on the farm where they worked. Many farmers feared division of their farms, and a loss of control over farm security. At the same time, labour legislation made it difficult to cut back on labour, especially given that the enactment of the Extension of Security of Tenure Act (known as ESTA) in 1997 made evictions from farms 'all but impossible' (p 10).

Throughout the report the authors make it clear that the category 'farmers' includes a range of people in terms of scale of operations and income or turnover, and that their findings tend to vary from one sub-category of farmer to another, and also from one region of the province to another. The findings cited in this summary represent their averages. Not surprisingly though (and the authors do concede that urban research would probably reveal a similar pattern), crime was by far the greatest of farmers' anxieties (p 19).

The first part of the report profiles farmers and workers, and provides details of working conditions and benefits. An average farmer, aged 50, employed 12,4 full-time agricultural employees, which figure rose to 14,9 if domestics were included. There were also occasional employees (6,8 being the average), with sugar farmers employing more, depending on seasonal fluctuations. In this sample, the average number of black people living on a farm was 19 adults and 25 children (p 25-27), with many (59%) of the farmers allowing retired employees to remain on their farms.

Details of wages paid to workers of different categories (senior as opposed to rank and file) and various other fringe benefits, including allowances made for the keeping of livestock by workers are given (p 29-36). In general, the accounts given by farmers and workers corroborated each other (p 50). Farmers' concerns about the tendency of workers to allow the numbers of these animals to exceed agreed upon limits, with all the attendant negative consequences for the environment – especially damage caused by goats – were also noted. Questions about proposed labour reform legislation (e.g. on minimum wages) elicited a response from 54% of farmers that they would reduce their labour force (p 37-8).

Turning to employees, the report refers (p 41-46) to three 'popular models', viz. the 'tribal traditionalist', the 'helot' (badly paid and treated serf) and the 'peasant farmer'. With this last model the specter of badly managed (from an environmental point of view) subsistence farming loomed large. However, the researchers stress that they found a 'workforce that did not conform to any of these stereotypes'. In their sample tribal or homeland attachments were weaker than expected, even among Zulu-speakers as opposed to Xhosa-speakers. Nor, regarding the second 'popular model' did they come across evidence of brutal or harsh treatment of farm workers, although there was 'informal agreement' that such practices might exist. (It should be noted that they were not seeking specifically to elicit this type of information, judging from the questionnaire). In fact, reported wage levels were on a par with, or higher than the average of rural wages, and there were also other perks such as the sue of land/allowance for grazing cattle (p 51). Regarding the posited third category, only a small percentage could be seen as aspiring to 'peasant farmer' status.

What they found was a 'settled working-class group', often second or third generation, which should be seen in the context of high levels of unemployment (as a result of, e.g. cutbacks on employment in mines for migrant workers). Some of the workers interviewed did want to better themselves in their present type of employment, e.g. move to a more senior level, and a substantial proportion of the sample (43%) declared themselves happy with their present work (p 45).

Focusing on the anxieties of farmers, and the relationships between farmers and workers, the report stresses the unhappiness of farmers (especially cattle and dairy) over the then newly-passed legislation on labour tenancy. (The issue of squatting and land invasions was, at that stage, a minor concern – p 56.) By 'simply passing this law the Government had diminished farm employment', with many farmers saying they would refuse to help tenants who wanted to buy land under the new dispensation (p 58-9). When pressed, there were differences of opinion about whether whole farms should be transferred or whether there should be subdivision of existing farms, with 60% choosing the former option, and 40% the latter (p 67-8).

Despite their negativity about legislation, farmers were, on the whole, positive about their relationships with their workers: 37% of farmers described relationships with workers as very good, and another 59% as fairly good. Only 4% said it was very bad (p 58-60).

Turning to the responses of workers to similar questions about land reform and relationships with farmers, the report notes that the workers' main preoccupation was with improved wages and, to a lesser extent and more in the southern part of the province, which the authors attributed to 'Xhosa' as opposed to 'Zulu' preferences, with land ownership. Only 24% put land ownership as one of their top two priorities, and even fewer wanted land on the farm they

currently worked. It was the 'small minority' who said that their relationship with the farmer was not very good or bad who were more likely to say that they wanted land on the farm they currently worked on, although most of this group still preferred land outside of the farm. Only 27% of the sample said that buying land on which they were currently tenants was a very good idea, a percentage which seemingly correlated with educational levels that, on the whole, were very low. Only 20% of the sample had completed standards 5 or higher. Likewise, education appeared correlated with preference shown by 10% of the sample for 'profit sharing'.

Workers' responses to questions concerning their relationship with farmers are detailed on p 76-78. As opposed to 37% of the farmers, 24% of the workers described their relationship as very good and 69% described it as fairly good, as against 59% of the farmers. Only 6% said it was fairly bad, with less than one percent describing it as very bad.

Interestingly, however, when asked about whether they thought that white farmers should move elsewhere, or stay in South Africa, 57% said – in what the authors interpreted as an 'evasive answer' – that they did not know whether the farmers should go or stay. Some 36% provided an unequivocal answer that the farmers should be encouraged to stay, with 7% saying they should be encouraged to leave: 'Those who described their relationship with the farmer as very good were nonetheless also almost twice as likely as average to believe that farmers should be encouraged to leave' (p82).

Not surprisingly, the vast majority of respondents approved the proposed introduction of a minimum wage, but their opinions soon changed when the likelihood of farmers reducing the number of workers was put to them, with two thirds then eschewing a minimum wage! (p 83-4).

In their conclusions, the authors caution – with specific reference to the non-committal responses regarding whether farmers should go or stay – that much is still not known, and that, despite the noticeable similarities with other provinces, given the specificities of KZN, it should not be assumed that all the findings would apply equally elsewhere. Even the regional differences they encountered suggested that the different districts of the province were almost like 'different countries'. They also acknowledge the absence of the plantation-based world of large-scale forestry (which had already moved to employ contract labour without residential rights, thus falling outside the ambit of ESTA) and sugar estates which, although not altogether absent, were not present 'in the proportions that would have been necessary to reflect exactly their true significance in the agricultural economy of the province'

Speculating about whether commercial farmers would follow the example of forestry by moving towards a contract labour system, especially given the type of funds needed by Government to buy up land in the hands of commercial farmers, the report suggests that consideration be given to profit-sharing rather than the dissolution of 'these little farming communities' in the form in which they currently existed.

The research was criticized by the National Land Committee and the ANC as being methodologically unsound and biased in favour of farmers. Firstly, the universe of farms from which the participants were selected, consisted only of Kwanalu members, and there was some scepticism about how it had been possible to conduct a 'random' sample of farm workers, given the difficulties of accessing workers and residents on farms, and the likelihood of perceived association between fieldworkers and farmers influencing the responses of workers.

In response Kwanalu agreed that it might seem ‘unbelievable’ that farmers had allowed strangers to interview randomly selected staff out of earshot, but stressed that ‘other than making a general appeal to our members to participate in the survey....Kwanalu was kept at arm’s length by the professions we employed to undertake the task. They fiercely guarded their independence.’<sup>42</sup> An ANC spokesperson, too, claimed that the survey was “biased”, adding that it was ‘like the ANC commissioning their own surveyors to do a study. They will never come back and tell a bad story’. At a meeting attended by thousands of farm workers in the Vryheid region, after the publication of the report, many workers reportedly produced pay slips showing a top wage of R192 per month and a bottom wage of R41,80 before deductions. The ANC, which had called this ‘Listen to the People’ forum, called on the Human Rights Commission to investigate abuses of human rights on farms in KZN.<sup>43</sup>

### **Human Rights Watch: Unequal Protection: The State response to violent crime on South African farms (Compiled by Manby B., 2001)**

The report was compiled by Bronwyn Manby for the American human rights organization, Human Rights Watch (HRW), which monitors human rights all over the world, including in the USA, and is the most recent of a series of reports by this body on issues relating to human rights in South Africa.<sup>44</sup>

The focus in this report is primarily on abuses suffered by people living and working on farms, including at the hands of owners or managers of farms, and the failure of the organs of State to deal with such abuse in an even-handed manner. The report states that crimes against black residents are not pursued with the same determination as those against white farmers (p 2-3). As with previous reports, this one incorporates published material, including media reports, and representatives of Human Rights Watch worked closely with representatives of local NGOs, especially its ‘partner organization’ in the project (p 9), the National Land Committee. A consultant conducted the research on which one of the chapters of the book – a case study on the Ixopo area – is based. However, a representative of Human Rights Watch also conducted interviews on farms in five provinces: Limpopo (formerly Northern Province), KwaZulu-Natal, Mpumalanga, Western Cape and Gauteng. Dozens of current and former farm residents (including people who had been evicted and were then living in urban areas), as well as farm owners, were interviewed. Also interviewed were members of the police, commando units, and private security companies, as well as justice department officials (including magistrates and prosecutors) and district surgeons. As with the previous reports of this body, this one also incorporates other published material, including press reports.

Although only one chapter titled ‘“Farm Attacks”: Violent crime against farm owners’ (p 138-157) is devoted to farm attacks, it has considerable relevance for work of the Committee. It is namely argued that the Rural Safety Plan (discussed in more detail below), which include the formation of security cells (the Farmwatch system, sometimes supported by commandos) has increased insecurity amongst black people living on and around farms. This Plan has also,

<sup>42</sup> ‘It doesn’t help to foam about farmers’ *Natal Witness* 11 February 1999

<sup>43</sup> ‘Farm workers tell ANC of bad pay’ *Natal Witness* 25 November 1998

<sup>44</sup> Earlier reports include *The killings in South Africa: The role of the security forces and the response of the State* (1991) and *Prohibited Persons: Abuse of Undocumented Migrants, Asylum Seekers, and Refugees in South Africa* (1998)

the argument continues, failed to respond to crime committed against blacks, including those perpetrated by farmers against workers. In support of this argument examples of reported abuses at illegal roadblocks in Northern KZN and the Wakkerstroom area of Mpumalanga province are cited (p 2).

Drawing on a large body of academic research, the main section of the HRW report begins with a lengthy background chapter, which looks in some detail at the effects of colonialism and apartheid on land occupation, including the ways in which laws impacted upon black people living on farms, and the forced relocations connected with homeland consolidation (pp18-29). It moves on to look at Land Reform policies since 1994 and, in the context of section 25 of South Africa's Constitution relating to property rights, the legislation which has been passed since then (p 30-39).<sup>45</sup> It then refers to the problems being experienced in implementing this land policy, and cites apparent reasons for the slowness of delivery, including complaints about the Department of Land Affairs. It states (p 40) that '(f)arm owners and their representatives agree...that the failure to deliver on land reform is likely to exacerbate tensions between farm owners and their workers or tenants'. It also cites a media briefing, in October 2000, by the National Land Committee and the Centre for Applied Legal Studies, University of Witwatersrand, warning of a 'serious breakdown of law and order in the rural areas, as had happened in Zimbabwe, if the government did not speed up land reform' (p 41). It also provides a brief overview of amendments to labour legislation affecting farm workers, and notes the apparent lack of governmental resources to monitor the implementation of this legislation. Like Johnson and Schlemmer, HRW refers to low levels of unionization of farm workers (at around 12-14%), and an apparent lack of capacity of the unions.

The report notes that, while representatives of farm workers and residents complain about lack of change, the 'most profound effect on the working environment' of post 1994 development has probably been experienced by commercial farmers. It then refers to the views expressed by representatives of 'the more conservative farmers' (Transvaal Agricultural Union) and 'moderate' farmers (Agri SA), which can be summarized as follows:

- The majority of moderates accepted the need for land reform, but many were critical of the 'unrealistic' nature of the Government reform process, referring to practical problems with the land redistribution process and with Land Affairs. NGO's are accused of engendering unrealistic expectations amongst farm workers and of creating tensions between the workers and farmers.
- Some of the frustrations being experienced by farmers are their inability to deal with unproductive labour through dismissing and evicting people who do not work, and the abuse of privileges such as those given to workers to keep livestock.
- The Government is also blamed for purportedly souring relationships between farmers and workers through fostering mistrust. The picture of these relationships in the pre-1994 period which farmers gave was one of mutual trust having existed.
- Government policy was exacerbating the trend to reduce the permanent work force and replace it with contract labour. (Figures are given on p 53 supporting this argument: against a general decline in employment opportunities during 1998-9, contract labour increased from 18,8 % to 24,3% of the labour force.)

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<sup>45</sup> The question of land policy is dealt with in this report in Chapter 15.

- Given the perceived negative role of NGOs - seen as remnants of 'Marxist' thinking - the report notes that there is 'little structured dialogue between agricultural unions representing farm owners and organizations representing farm workers' (p 51).
- The situation farmers find themselves in is exacerbated by the financial climate (e.g. declining subsidies); the report notes that before the present economic downturn in 1988, only one third of white owned farm units had been financially viable, the rest marginal.

The remainder of the chapter (p 52-62) summarises contemporary conditions on the estimated 60 000 commercial sector farms in South Africa. (A brief overview of types of farming activities is provided on p 52-3.) Although declining, employment in this sector still accounted for over 10% of the country's formal employment. Employees fall into different categories, most living on, others living off, the farms. Seasonal workers, who are mainly women, form another category. The most vulnerable group of workers are migrants from neighbouring countries, many of whom are women. Citing relevant research, the report notes the generally poor working conditions on farms (but acknowledges that they do vary considerably), especially insofar as women are concerned, and the educational problems faced by children. Research regarding another vulnerable category, non-South African employees from neighbouring countries, suggested that employment of non-South Africans had increased after 1990 (p 62).

The following four chapters cover in some detail abuses against farm workers or tenants, or people assisting them, starting with 'Assaults against farmworkers' (p 63-101). Noting that only a few 'high profile' cases reach the media, HRW stresses that it is not possible to assess how widespread the problem of assaults on farmworkers or residents by farm owners or others really is and that the aim is rather 'to give an indication of the sort of abuse that occurs on South African farms, and the lack of accountability through the criminal justice system where that takes place' (p 69).

Citing Eugene Roelofse, who was the South African Council of Churches ombudsman in the 1970s and 1980s, and others, the report notes that the problem is an old one. Although one white farmer interviewed by HRW admitted the probability of widespread assault, 'farm owners' representatives consistently state that they believe that the extent of assaults against farm workers is exaggerated' (p 64).

In addition to the Johnson and Schlemmer report, a survey carried out amongst migrant farm workers in the Free State is cited. The latter survey found that 74% of the 152 respondents said that relations with employers were good or satisfactory (61% and 13% respectively), but of those expressing satisfaction with the relationship, half (32% of the total number surveyed) reported that they had been verbally abused, and 19% (of total surveyed) claimed physical abuse. HRW notes that the 'expected standard of treatment is clearly low', and also points out, providing details of interventions, that agricultural unions have taken a public stand against abuse (p 65-6).

Many cases of assault on farm workers and residents are not reported to the police for various reasons, such as the distance of the farm from the nearest police station, a perceived close relationship between farmers and police and fear of job loss. In a number of cases (some of which are subsequently detailed on p 183-194), 'farmworkers attempt to report abuse, but the police refuse even to open a docket' (p 69). HRW refers to interviews with the police which revealed that there was far less awareness on their part of assaults on workers by farmers than

vice versa, e.g. the commissioner of a small station in rural KZN where farm residents had reported cases to the police, was 'unable to recall a single such case', but he could 'recollect by name the half dozen cases' in which a farmer had been the victim not only of murder but of robbery and assault (p 67). (The validity of this criticism obviously depends upon the seriousness of the particular cases, which is not indicated in the report.)

Descriptions of specific incidents of abuse, based mainly on interviews with victims, are given (p 70-82); there were allegations of collusion between farmer and police in some of these cases. Some of those subject to abuse or threats were people living in the vicinity of a farm, who were allegedly threatened or assaulted when stopped at unofficial roadblocks (p 83). Such security clampdowns appeared linked to 'farm owners' own fear of violent crime'; many farmers had told HRW that 'fear of violent crime had led them to be more suspicious of black people generally....'(p84).

Also detailed (p 84-94) are allegations of serious abuses by commando members, with HRW citing 'credible' reports of abuse – ranging from the staging of illegal roadblocks to murder – being committed by commando units in many areas, including several in KZN, as well as the Wakkerstroom commando in Mpumalanga. Descriptions of some of these cases, especially those linked to the Wakkerstroom commando, are given(p 86-94), as are unsuccessful attempts by local blacks, from 1994 to 2000, to elicit government reaction. At the time the HRW report was written the situation appeared to have improved to the extent that there had been no further reports of serious assaults by members of the commando following a visit to the area, in July 2000, of a Government delegation which included the Minister of Defence, and the appointment of a team of police members at Middelburg to investigate cases (p 93-4).

Another source of abuse of farm residents which receives mention is that carried out by private security companies, who may confuse people about their identity by wearing 'military-type uniform', despite the use of camouflage only being permitted for the army. (Page 95. This is incorrect, however: the wearing of camouflage dress *per se* is not prohibited.) The fact that black members of these companies may not speak a local indigenous language suggests to locals that they may be former apartheid 'special force' personnel from neighbouring countries. The confusion caused by the apparel worn by these companies, and their *modus operandi*, may result in their activities being, erroneously, attributed to commandos.

The final section of this chapter deals with abuses by security companies (which other farmers in the area may be greatly concerned about - see, e.g. p 99), and vigilante groupings, specifically Mapogo a Mathamaga, formed in what was then the Northern Province in 1996. Boasting a white membership of 10 000, out of a total of 35 000, the group had ninety branches in the Northern Province, Mpumalanga, North West Province and Gauteng. (According to press reports it has extended its activities to KZN more recently.) The violent methods used by this group had led to more than 300 criminal charges pending against it (p 100).

The theme of violence against farm workers and residents is carried further in the next chapter which looks at the evictions which have continued to take place despite the existence of legislation intended to provide security of tenure for these categories of people. What amounts to eviction, says the report, may result from 'the creation of conditions that cause farm residents to leave their homes 'voluntarily', such as the cutting off of water supplies (p 104). However, '(t)oday as in the past, many evictions are accompanied with violence or the threat of violence, violence that seldom enters the official record' (p 105), and some such cases,

including one in the Northern Province (Limpopo) involving the timber and paper company Mondi, are described (p 108-113). Mention is made of problems experienced when police assistance is sought and of the logistical problems victims of eviction face, e.g. in securing legal assistance. The connection between illegal eviction and alleged violence by the police in complicity with a farmer is illustrated by reference to the case of Maswiri Boerdery, near Messina, which was the subject of an enquiry by the South African Human Rights Commission (p 114-117), which expressed concern about the ‘cruel, degrading and inhuman treatment’ suffered by a woman.

The following chapter (p 118-128) focuses specifically on gender aspects of violence in the form of sexual harassment and rape of women and children by fellow workers, partners, farm managers and owners. Regardless of the identity of the perpetrator, women may experience problems if they try to report such abuse. If the perpetrator is a partner or fellow worker, they may be dependent on the abuser and farm owners may ‘distance themselves from violence involving farm workers against each other’ (p 123). If the perpetrator were a farm manager or owner, the threat of loss of employment for even reporting such a matter was a very real one (p 127).

Instances in which those trying to assist farm workers and residents were also subject to abuse are described in the chapter ‘Assaults against farmworkers’ advocates’ (p 129-137). People trying to assist farm workers (representatives of NGOs, trade unionists, paralegals and lawyers) often experienced access problems – not unconnected to the insecurity of farmers who, given the prevalence of farm attacks, had legitimate concerns about allowing strangers on to their property. (Agri SA was reportedly in the process of developing a ‘protocol’ to be followed to gain access to farms and farmworkers.) Cases of harassment, threat, intimidation and even attempted murder of those assisting farmworkers are detailed. Christo Loots, a Pietermaritzburg-based lawyer who undertakes work on behalf of farm workers, is cited as saying that ‘no white property owner would rent premises to him (in Vryheid) when it became known the type of work that would be handled’, that he had received anonymous telephonic threats connected to his work on land rights, and no longer received any work from agricultural cooperatives, for whom he had previously acted (p132).

The attention shifts, in the following chapter, to ‘“Farm Attacks”: Violent Crime against farm owners’ (p 138-157), which starts with a graphic description of an attack in Bapsfontein in August 1998, as described in an interview with the HRW researcher. Citing CIAC reports and Agri SA, about the increasing incidence of farm attacks, the report notes what it sees as problems inherent in the statistics on which this inference is based:

- The conflation of farm and smallholdings statistics distorts the picture. The report notes, with reference to CIAC report number 2 of 1998, the rapid increase of attacks on smallholdings, especially in Gauteng, relative to attacks on commercial farms.
- There is a tendency (which impression was reinforced in HRW interviews with police) to collect statistics on black victims mainly when attacks on whites were reported (i.e. as a corollary of attacks on whites), which might mean there was an under-reporting on numbers of black victims.
- By subsuming ‘intra-black’ violence on farms under the label ‘social fabric’ it is excluded from the farm attack category. As with the simplistic label ‘black on black’ applied to political violence, this exclusion gives the impression that this type of crime is of far less importance than attacks by outsiders on white farmers (p 142-3).

- Assaults by farmers on workers are not included.

However, regardless of the problems with statistics, the climate of fear that white farmers are living under is, as accounts given by farmers to HRW shows, a very real one (p 143-4). Many farmers, and some representatives of agricultural unions, believe that the attacks are ‘explicitly racial or political’, and aimed at driving farmers off their land (p 144). Reference is made to recurring themes in the literature cited above – the pre-1994 APLA campaign, the brutality of some of the killings, and an apparent lack of obvious motive in some of the cases. At its most extreme, says HRW (p 146), the belief is that the campaign is ‘ideologically driven’, with the Government, aiming to force down land prices and training former members of MK or APLA to create a Zimbabwean-type situation. Those holding such views, however, conceded that there was no evidence to support them. The context in which land-linked interpretations of the violence are given is the perceived failure of delivery on the part of the Department of Land Affairs.

HRW notes that ‘several farmers’ it had interviewed had reported receiving various types of threats, ‘ranging from anonymous telephone calls to letters warning them to leave their farm or face the consequences’ (p 148). Some interpret such threats as a further indication of an organized campaign, while others see them as ‘isolated threats from the land-hungry’. However, even those who do not subscribe to a conspiracy theory – and here HRW refers to interviews with representatives of farmers’ associations and members of the SAPS – see the apparent rise in crime against farmers as linked to the Government’s land reform policies. In contrast to white perspectives on these attacks, many black South Africans, says the report, see them as a consequence of ill-treatment of labour and that ‘attempts to organize private security or commando protection for farms are throw-backs to the “third force” of the 1980s and early 1990s’ especially because of the tendency to use ex-members of South Africa’s ‘more notorious apartheid security units, including the 32 and Koevoet ..... battalions’ as private security (p 149-50).

However, contrary to these opposing perspectives, the report points out that ‘more or less systematic studies’ such as that of Schönreich and Steinberg<sup>46</sup>, and the Britz and Seyisi report<sup>47</sup>, have not revealed any ‘substantive evidence for a coordinated campaign of intimidation to drive whites off the land’, the motive being primarily criminal (p 150-3). Depending on the region, they may also need to be seen in the context of violence levels in areas in which they occur, e.g. political violence in KZN.

Noting the ‘surprisingly casual’ approach to personal safety adopted by some farmers, e.g. the lack of ‘normal’ burglar bars and security gates, and the apparent inadequate screening of temporary labourers, the report refers (p 154-5) to the ‘most comprehensive and in depth study of the motives for violent crime against farm owners’ by Mistry and Dhlamini<sup>48</sup>, which also found that, with the exception of a few cases which were grudge-related, criminal motives were dominant in such attacks.

In conclusion, HRW comments that, despite the lack of evidence of any orchestrated campaign against farmers, the continuing use of the term ‘farm attacks’ reinforces notions of a ‘military or terrorist basis for the crimes’ and ‘tends to cloud analysis of possible solutions to the violence’ (p 156-7).

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<sup>46</sup> See p 268.

<sup>47</sup> See p 222.

<sup>48</sup> See p 232.

The next, lengthy, chapter, 'The State Response to Violence on Farms' (p 158-217) is essentially the main thrust of the HRW report, and starts by pointing out the constitutional obligations of the State to protect all persons without discrimination, and its failure – as with lack of intervention in unlawful evictions from farms – to do so (pp158-161). It is followed by a brief overview of the challenges to South Africa's justice system posed by the high crime rate (pp158-167)

Before moving on to look at the apparent differential responses of the State to farm workers and farm owners, the report examines the workings of the Rural Safety Plan (pp168-183). Since this section draws on the research by Schonteich and Steinberg, cited below, and also provides details of HRW own enquiries into the working of this plan, this section of the report will be dealt with under the section below, which covers Rural Safety Plan literature.

HRW conclusions concerning the State's responses to violent crime against farm workers (p 103-204) can be summarized as follows:

- There is a perception amongst farm workers and those assisting them that initiatives such as the Rural Safety Summit assist farmers but do nothing to address the type of criminality and illegal actions, e.g. evictions, to which farm residents are subject.
- Police generally refuse to act when illegal evictions occur, even when they are accompanied by violence.
- Black police members quoted by HRW cite problems in following up cases in which commando members are allegedly involved, including that of obstructionism by the SANDF. Farmers may even deny police access to farms.
- Police tend to pay more attention to property crimes against the 'more affluent' than crimes of violence against poorer people such as farm workers – a problem exacerbated by police understaffing.
- Complaints against a farmer may lead to subsequent charges being laid against the complainant.
- In terms of the role of the Justice Department, even writing to the office of the Director of Public Prosecutions did not necessarily produce results. (Examples are cited.) Prosecutors interviewed by HRW appeared not to know about assaults on farm workers in areas where they worked; if they acknowledged the problem they might see it as a farmer 'disciplining' a worker. Although a few stiff sentences had been handed down by courts, when there was a conviction, sentences (even for murder) often appeared 'grossly inadequate'.
- Women and children on farms who are victims of violence, including rape, face even more problems than their urban counterparts, including the lack of support networks and resources in rural areas, including crucial medico-legal, and counseling, assistance, and inappropriate responses from police and Justice Department officials

The State's response to criminal violence against farm owners is covered on p 204-213:

- The arrest rate for farm attacks is high (a CIAC report for 1998 is cited), especially if only farms and not smallholdings as well are taken into account. This success rate appears linked to the Rural Protection Plan, and the crucial factor of speed of response time by farmwatch and commando members, as well as effectiveness of police in following up leads.

- However, despite these successes there is a general lack of confidence in the police – not unconnected to policies of ‘affirmative action’ and a perception that the Government was only paying ‘lip service’ to the problems faced by farmers, and showing more concern for the plight of labourers (p 206). HRW notes that police now need to be seen to be responding to the whole community, and there is less privileged access for farmers while suffering increased exposure to violent crime. The main complaint was of poor police response time (examples are given on p 208) but ‘the same group of people, when asked to tell of particular cases where the police had been slow in responding, were unable to do so’.
- Even when farmers conceded that the police were making an effort to assist, there was a ‘strong sense that the criminal justice system generally is failing’ (p 208). For example, if perpetrators are caught they may escape, and cases are not necessarily followed through. A survey by Agri SA in early 2001 is cited as showing majority support (65% of respondents) for farmers taking the law into their own hands if farm murders continued, and farmers are quoted as admitting to doing so and complaining about their ‘disciplining’ of workers being interpreted as assault.
- The country’s Constitution is seen to be favouring criminals. ‘Perhaps the deepest concern of farm owners is a sense that, despite the Rural Safety Summit and other assurances from the Government, they have been effectively abandoned by the new non-racial democracy’. They perceive more concern with ‘isolated assaults’ on farm workers than on continuing white deaths, as proof of which a comment on TV in February 2001 by the Minister of Labour that farmers should ‘adapt or die’ is cited (p 212). The report points out, however, that there have been various statements by Government ministers, and by the ANC, condemning violence against farm owners (p 212).
- While the January 2001 commitment by the Minister of Safety and Security to commission further independent research into farm attacks was welcomed by Agri-SA, TAU ‘threatened again that farmers would take “drastic action” to protect themselves if the Government did not stop murders of farm owners’ TAU also subsequently stressed (in response to the Government’s announcement that new helicopters would be purchased to fight rural crime) that it was security forces on the ground that were needed to prevent murders (p 213).

The remaining pages of this chapter (p 213-217) explore the role of the Legal Aid Board, and the Human Rights and Gender Commissions, as part of the State’s response to farm violence.

The penultimate chapter (p 218-230) is a case study of events in the Greater Ixopo Area of KZN, during 1999 and 2000, which is used to show the ‘complex connections’ between violent crimes against farmers, and security force responses to it, and assaults on farm residents. This chapter is written by a consultant, freelance journalist Cheryl Goodenough.<sup>49</sup> The case study starts by referring to the murders of two farmers (Malcolm Macfarlane and Bruce Mack) in the vicinity of Highflats in late 1999, which ‘brought to a head complaints from many farmers.....that the police were ineffective, complaints not followed up, and proactive policing non-existent’ (p 220).

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<sup>49</sup> Some of the ground covered is also in Schönteich M. and Steinberg J. *Attacks on farms and smallholdings: An evaluation of the rural protection plan* (2000), and Steinberg J. *Midlands* (2003)

An Ixopo Farm Watch, later re-named Ixopo Community Watch, had been established in May 1997 and, by 2002, was operating in four contiguous policing districts – Ixopo, Creighton, Donnybrook and Highflats. Financed by local farmers and timber companies it had nine full time employees, some of them former police members. All operational staff were police reservists. After the murder of the two farmers, soldiers including the Umkomaas commando, were deployed and they patrolled the greater Ixopo area regularly. Police and Farm Watch claimed the patrols were effective in terms of recovering firearms and arresting ‘known criminals’ and enjoyed community support.

Community members, however, complained of assault by members of the army and Farm Watch and, by the end of 2000, ‘at least sixteen cases of assault were being investigated against soldiers and police in the Ixopo area’ (p 222). According to the office of the Area Commissioner under which the area concerned falls, raids were conducted in Creighton without the knowledge and consent of the local station commissioner, nor was the presence of the SANDF members (apparently from the Eastern Cape) reported to the station commissioner. ‘Police involved in investigating the cases lodged against soldiers have struggled to get information from the SANDF, including copies of the reports listing people deployed on each patrol’ (p 225).

These raids in the areas around Ixopo ‘culminated in the death of Basil Jaca’ a resident of a farm near Ixopo, who worked with a building contractor. Mr Jaca died in July 2000, the day after ‘he was allegedly sodomized with a rifle during a raid for illegal firearms carried out by the Umkomaas commando, accompanied by a member of the Ixopo Community Farm Watch’ (reservist constable John Arkley). Other residents were also assaulted, two of them badly. Arkley was given bail soon after being arrested, but the army members were initially denied bail, despite the State (according to the investigating officer, on the instructions of a senior officer) not having opposed it. They were later given bail and released into the custody of the military police in Pietermaritzburg (p 227). Despite the army having apparently had knowledge of the operation, it had done ‘nothing to investigate the charges against the six soldiers’.

The Jaca incident, the report notes, brought to a head discontent among especially the black residents of the area about crime, culminating in a peaceful protest at the court about escalating crime rates and police ineffectiveness. A memorandum handed to court officials called for, amongst other things, an investigation of the SANDF which, it said, behaved like a ‘foreign army invading enemy land’ (p 228). Ixopo mayor, Themba Mahlaba, told of numerous incidents involving the SANDF, including rape and theft of money, which had been reported to him and said that ‘the community wanted to work with the farmers, but that the community policing forum was non-existent’.

Allegations of abuse by individuals connected to Community and Farm Watch also continued, and were being investigated by the Internal Complaints directorate of SAPS. Citing a local black resident, the chapter concludes by noting that ‘(a)lthough the creation of the Ixopo Community/FarmWatch may have increased a sense of security for farm owners, the result of the recent assaults seems to have been the further alienation of the black population in the area from the white farming community’ (p 230).

In its summing up in the concluding chapter (p 231-242), the report makes a number of recommendations about improving rural safety in general: Firstly, the Rural Safety Plan

should be evaluated and restructured. (This aspect of the recommendations of the report is dealt with below). Secondly, there is an urgent need to move from military to civilian policing and, while this ‘transition’ is taking place, the following steps should be taken:

- All members of the security forces, including part time, should be brought under ‘proper discipline and control’.
- Police must be trained to report ‘even handedly’ to reported crimes, regardless of race or gender of victim.
- A full time police member (i.e. not a reservist), preferably fairly senior, should accompany commando members engaged in policing activities.
- The SANDF should ‘urgently develop an effective internal mechanism for handling public complaints’, and the Independent Complaints Directorate should be empowered to investigate or oversee the investigation of complaints against SANDF members engaging in policing work.
- The Departments of Justice and Safety and Security should ensure that effective prosecutions are brought not only against perpetrators of crimes against farmers, but also against farmers, vigilantes, commando and private security members involved in abuses, through, e.g. deploying detectives and prosecutors from outside of the areas concerned.
- Stricter controls, including through appropriate legislation, should be implemented to ensure that private security personnel, including those in farmwatch schemes, do not act as vigilantes, and do not usurp policing functions such as conducting house searches.

The report also suggests that the Government should ‘review the collection of statistics relating to violence on farms’ with a view to providing accurate statistics for *all* violent crime on farms, including sexual assaults and evictions. HRW also recommends that ‘the figures for “farms” and “smallholdings” be disaggregated’ (p 235).

In conclusion, the report says (p 241) the ‘black farm residents are disadvantaged by comparison with white farm owners in obtaining a response to their complaints of abuse’. Furthermore, ‘the additional economic resources that white farm owners have enables (sic) them to organize to compensate for the deficiencies of the criminal justice system in responding to violent crime. While some such efforts make a useful contribution to rural security, in too many cases these self-help mechanisms have become little more than vigilante groups acting on behalf of white interests only. .... Though violent crime against farm owners is a serious and relatively new phenomenon, deserving of an effective State response, it should not dominate discussion of policing priorities in farming areas to the exclusion of other forms of violent crime’. Firm steps had to be taken to ensure that laws were enforced, and all were protected from violence and other abuse (p 241-2).

### *Critique of Human Rights Watch Report*

The report’s main thrust is no doubt to emphasize violence committed against farm workers and other farm residents, especially by farm owners and farm managers. It is therefore not surprising that the report contains many detailed descriptions of proven, as well as unproven, and even anecdotal, instances of assaults, rapes, and even murders of farm workers and residents by farm owners, farm managers and others. (There is reference to twelve instances between 1988 and 2000, during which a total of fourteen farm workers or residents were killed

by farmers, although in at least two cases the culprits were in fact not farmers, and in one case there was no evidence of who the murderer was. There is also reference, on p 197, to a 'reign of terror.... in which repeated deaths had gone uninvestigated and those believed to be responsible uncharged' on a farm near Dundee.

Nevertheless, in its chapter 'Farm Attacks: Violent crime against farm owners' HRW purports to give an overview of farm attacks. It is therefore very surprising that the few detailed descriptions of farm attacks in the chapter can all be categorized as falling in the relatively less serious category, in some instances amounting to little more than burglary. Only one case of murder – that of Bruce Mack in the Ixopo area – is described in any detail in another chapter (p 219), and then only to demonstrate the violent response it elicited from the Ixopo Farm Watch. There are literally thousands of well-documented cases of farm attacks which could have been used by HRW to illustrate the problem of farm attacks and it is difficult to fathom why HRW chose to ignore that.

As far as rapes are concerned, the same problem manifests itself. Three rapes by farm owners are described (p 120 – 121), two of which on the basis of hearsay allegations. Not one of the many recorded rapes by farm attackers are described. In this respect HRW has the following to say (p 118): 'Human Rights Watch did not document any cases of rape against wives or female relatives of farm owners, although we received allegations that such women are often targets of rape on farms in the context of violent crime against farm owners. The absence of accounts of such rapes in the section that follows is due only to the difficulty of arranging to speak to such victims, and does not in any way imply that we regard the trauma of white women in such circumstances as in some way less than that of black women.' This statement is also surprising, especially in the light of the fact that there are many descriptions of such instances in the official records of court cases, which are public documents.

The attention of the Committee was also drawn to a letter dated 23 April 2002, sent on behalf of the National Commissioner of the SAPS by Deputy National Commissioner André Pruis to the Executive Director of Human Rights Watch in New York. At a sitting of the Committee the Transvaal Agricultural Union also expressed their serious objections to the allegations in the report and at the request of the Committee they agreed to put their views in writing. That resulted in a document compiled by Dr S. J. Kruger and Mr J. P. Loggenberg on behalf of the TAU and, being a publication, it will be reviewed in detail below.

In its letter the SAPS notes that following the publication of the report it had researched incidents in it, which had relevant identifying detail such as name, date and location. However, where such information was lacking it had not been possible to verify the 'integrity and the contents of the allegations'. Incidents involving the commandos had already been investigated by the SANDF.

Five specific cases in which the police were implicated were investigated:

1. Police docket Wakkerstroom CAS 9/12/96: Ten people had been charged but when the case was brought before court, it had been dismissed due to 'contradictory statements from the complainants, poor evidence, as well as the fact they deviated from their original statement' (In the HRW report, p 87, it is alleged that the cases were withdrawn by the State in May 1999 due to insufficient evidence, which is clearly incorrect.)

2. Wakkerstroom CAS 35/02/97: The Attorney General had ordered a Judicial Enquiry which found that ‘the death of Mr Simelane (the victim) was not caused through an act or failure to act which is *prima facie* ‘included as a misdemeanour on the side of someone’. (In the HRW report, p 91, the allegation is made that ‘the case never came to court’.)
3. Dirkiesdorp CAS 50/01/99; The case was followed up by the local police station and two suspects, one of whom was a farmer, were found guilty of assault with the intent to inflict serious bodily harm and sentenced to R3 000-00 or 18 months in prison, which was suspended for three years. (In the HRW report, p 92, it is alleged that the victim had been assaulted and kidnapped, but the police did not even take a statement from him.)
4. A press report of brutality by commando members, cited on p 93 of the HRW report, was followed up by members of the Piet Retief police station, who interviewed the labour tenant who had allegedly been the victim of serious assault and who was then engaged in a High Court case with the farmer regarding his rights as a labour tenant. The tenant had denied that he had been assaulted, and could not substantiate allegations of police complicity with farmers in closing dockets prematurely.
5. Dirkiesdorp CAS 20/11/96: A case of assault opened against a commando member, but he was found not guilty in court after the complainant testified that he had lied about the incident. (The HRW report, p 92, refers to a newspaper report of allegations of brutality by commando members, including the serious assault of the labour tenant.)

The letter concludes by denying that the police are part of the problem, as alleged by HRW, in not responding to abuse by farmers, pointing out that there is a team of detectives at each provincial police office, tasked with investigating such cases and reporting back on a monthly basis. It also asserts that ‘every case which has been registered is not only investigated by the police at the local police station but also brought ‘before court’.<sup>50</sup> It is suggested that Human Rights Watch approaches the SAPS before compiling reports relating to the functions of the Police.

**TAU: Unwarranted accusations by Human Rights Watch (Agrarian response to the so-called violent human rights malpractices encountered on South African farms as reflected in the publication: Unequal protection: The States response to violent crimes on South African farms) (Compiled by Dr S.J. Kruger and J.P. Loggenberg)**

The Transvaal Agricultural Union responded to the HRW report by producing a written document. This document, authored by Dr S. J. Kruger and Mr J. P. Loggenberg, is highly critical of the HRW report to the point of accusing the researchers involved in compiling it of ‘common racism and war-mongering’ (p 1). The authors also take issue with HRW as a movement, accusing it of being founded on an ideology of humanism, which is congruent with a ‘mindset aligned to revolutionary behavioural patterns’ inimical to Christianity (p vii). Their own stance is that ‘academically, Separate Development is the answer for any society being composed out of different races and people with variant ethnic alliances’ (p 4).

The preface and comments on the first part of the ‘Background’ chapter of the HRW report is largely a refutation of HRW’s version of South African history, as it relates to land and

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<sup>50</sup> This statement does not seem to take into account cases closed, undetected and not sent to the DPP’s office for consideration about possible prosecution.

relationships between blacks and whites, and the substitution of the authors' own perspective on the country's history, as it relates to the social organization and culture of indigenous black Africans, and colonial and apartheid land policies. This perspective is essentially the same – including insofar as 'capitalist' and 'communalistic' mindsets are concerned - as that presented in the Action Stop Farm Attacks Memorandum and the publication Property Rights in South Africa, summarized above.

The HRW sections on land and labour reforms, responses of farm owners, and conditions on farms today (see p 30-62 of the HRW report) are discussed on p 11-16, with the authors taking exception to HRW having ignored the proceedings of the International Conference on Property Rights, drawn to its attention by TAU, regarding damage done in Zimbabwe and other countries as a result of failed land reform programmes. Questions about the goals of HRW are posed, for 'its biased and racist approach can only lead to a second Zimbabwe', or even another Angola or Mozambique, and South Africa as the major economic power in Africa will be destroyed (p 11). There are also dire warnings, citing other African countries, linking land reform to potential conflict in South Africa.

A recurring theme in the criticism is the failure of socialist policies, which are linked to post-1994 policy and black 'communalism' (as opposed to capitalism). Also ignored by HRW is the fact that the land reform legislation 'has been proven to be anti-White, therefore racist and biased' and that, in terms of the Employment Equity Act, white males suffer discrimination (p 12). References to 'the protection of white control' in the HRW report, engenders 'hate and animosity' among South Africans and members of the international community.<sup>51</sup> There is place for a discussion of pre-1990 politics, say the authors, but that should be done 'with an objective and unbiased mental mindset' (p 13). There is a reminder that 'prior to 1990 farm murders, farm attacks and evictions from farms were not heard of', apart from 'possibly offshoot instances' which were the exception rather than the rule.

Regarding present conditions on farms, the authors claim that most farms have farm schools, that legislation requires all employees to be treated equally as regards gender discrimination, and that there is no proof that farm children are malnourished. The use of foreign labour, e.g. from Zimbabwe, is defended on the grounds of severe problems in the recruitment of South African labour that farmers experienced since 1994 (p 14-15).

In their discussion of the HRW chapter 'Assaults against Farmworkers', the authors point out that TAU has requested 'all levels of authority' to identify abuse and report it to organized agriculture so that it may be dealt with, and supports the charging and punishing of perpetrators. Farmers too, experience problems, in that many cases of incitement, including by Government officials and NGOs, and threats by farm workers, are not followed up 'mainly due to cover ups by Government Officials' (p17). The authors also object to HRW applying the label 'farmer' when referring to some of the perpetrators in cases cited in their report (p 17). (Several of the cases referred to in the HRW report, p 70, in fact concerned businessmen who happened to live on smallholdings and in one stance the culprits were a rugby team.)

Turning to alleged abuses by commandos, private security and vigilante groups, the authors respond as follows:

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<sup>51</sup> This refers to a sentence on page 46 of HRW report: '(T)he protection of state security and the use of state violence to check challenges to white control of the land has been exchanged for a government commitment to land redistribution and laws protecting farm residents'

- The commandos are extensions of the SANDF which is ‘sanctioned by Government authority’ (p 18).
- Some of the victims quoted in the HRW report alleged that commando members had worn “brown camouflage uniforms”, but those have not been worn by army members since 1994 or 1995. Besides, people other than commandos have access to army-type uniforms.
- Concerning the case in which Richard Hlatswayo had laid a complaint against a farmer by the name of Greyling (Wakkerstroom case 9/12/96 referred to in police response to HRW discussed above), the complainant had been ‘proven a liar in court’ (p18). (It should be mentioned that earlier in their critique, on p 3, the authors had suggest that ‘so-called serious abuses’ of employees could be seen ‘as a response by the farmer due to the neglect of responsibility by the employee’.)
- Allegations about abuses by private security companies are rejected as ‘prejudiced’ and ‘biased’ (p 18).
- The conduct of the vigilante group Mapogo a Mathamaga is defended in terms of ‘traditional punishment’ within ‘the communalistic Black African culture’ (ibid).

The ‘Violence Accompanying Evictions’ section of the HRW report, say the authors, appears to be largely the work of Nkuzi Development Association. In this regard there is once again reference to the different ‘individualistic’ and ‘communalistic’ perceptions of land, and the fact that black people justify remaining on land which legally belongs to someone else (a farmer) in terms of ancestry. Why should the same then not apply to white people who purchased land and lived on it in the 19<sup>th</sup> century? The plight of a white widow who was forced to leave her farm after her husband’s death, because of debt, is referred to by way of illustrating HRW double standards for blacks and whites. There are also omissions on HRW’s part in their references to incidents at the Joe Slovo squatter camp (near Lanseria airport, north of Johannesburg), including the criminality at this settlement and ‘attacks and murders on legal land-owners in this area’ (p 20). HRW is also accused of presenting a one-sided perspective in its coverage of events at Maswiri Boerdery on p 114-117 of the (p 20).

Insofar as gender aspects of violence are concerned (HRW report, p 118-128), TAU points out that perpetrators of such violence, e.g. many foremen and farm workers, are not necessarily white and that farmers cannot become involved in, nor held responsible for, cases of domestic violence. Rape on farms should be seen in the context of rape, including of children and babies, in South Africa generally ‘due to myths regarding HIV/Aids’ (p 21). Turning to the section on ‘Assaults against farm-workers’ advocates’ the authors claim numerous examples of ‘arrogance and vindictiveness of Government Officials and NGO’s representatives towards the TAU and White farmers’, and claim that ‘so called advocates or...legal representatives’ may actually create a climate conducive to confrontation (p 21).

Several pages of discussion (p 21-27) on the HRW chapter on ‘Farm Attacks’ follows. Referring to high levels of violent crime, the authors agree that most victims of violent crimes are black, which they attribute to ‘Black on Black’ violence, ‘usually dispensed by Black family members within the Black domestic environment’. They argue that this type of crime does not receive the coverage that inter-racial crime does. They agree with HRW that ‘many White farm-owners are living in fear’ (p 43) and proceed to advance reasons for this state of affairs, which they see as linked to racial and political issues around land which should be seen against the liberation struggle and the expectations engendered by the government’s land

reform policy. That the police cannot find evidence to prove ‘political dispositioning within the land claim issues, because politically that is the expected thing for them to say (p 23). TAU thus takes issue with HRW for maintaining that there was no ‘substantive evidence for a co-ordinated campaign of intimidation to drive whites off the land’ (p26), is contested: Farm attacks have ‘*dual basis*, namely political and criminal’ (ibid).

TAU, say the authors in their comment on ‘The State’s Response to Violence on Farms’, has done its own monitoring of why the government has failed to meet the safety and security needs of its citizens. Among the factors it lists are the restructuring of the SAPS and SANDF along racial lines, with attendant loss of expertise, the down-sizing of the SANDF, incompetence in the SAPS and SANDF, and lack of allocation of funds to security forces which, in turn, creates an ideal situation for criminals, including international syndicates, to operate in. Investigations are poorly handled, so ‘it is virtually impossible for any prosecutor to prove guilt’<sup>52</sup>, while the Bill of Rights is perceived to protect criminals more than law-abiding citizens. Rural police stations are under-resourced, and staff may be totally illiterate (p 28). TAU suggests that the targeting of commandos (by criminals, Government officials and NGOs) may be linked to anti-Afrikaner sentiments.

Not only has the HRW report ‘failed to illustrate clearly and truthfully the brutality and torment during a typical farm attack, as opposed to the explicit detail given to cases involving black victims’, but it has failed to solve a ‘single problem’ and has rather encouraged the ‘elements of hatred, racism and mutual distrust’, seriously damaging the image of farmers.<sup>53</sup>

#### THE RURAL SAFETY PLAN

As mentioned above<sup>54</sup> a Rural Safety Plan was implemented in 1997 with a view to encouraging ‘all roleplayers concerned with rural safety (in effect farmers, SAPS, SANDF and private security companies) to work together in a co-ordinated manner, and engage in joint planning, action and monitoring to combat crime in the country’s rural areas.’<sup>55</sup>

There are two publications dealing specifically with the Rural Safety Plan, based on research evaluating its effectiveness carried out by Martin Schonteich and Jonny Steinberg, published in a monograph, and a paper by Steinberg looking specifically at two areas, i.e. Letaba and Mooi River. As indicated above, the Human Rights Watch report also devotes a fair amount of attention to this Plan.

#### **Schönteich M. and Steinberg J.: Attacks on Farms and Smallholdings: An evaluation of the rural protection plan (Institute for Security Studies, 2000)**

The monograph, co-authored by Martin Schonteich and Jonny Steinberg, was based on their research in 1999 to assess the effectiveness of the Rural Protection Plan, and ‘to develop a

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<sup>52</sup> The relatively high conviction rate for farm attacks – see p ?? contradicts this assertion

<sup>53</sup> Most of the last section of this response, p 29-31 ‘Remarks on the case study : The greater Ixopo area’ deals with historical factors relating to land issues in the Umzimkulu district which is some distance away from the focus of this HRW chapter, i.e. the Ixopo/Highflats/Creighton area of the KZN Midlands.

<sup>54</sup> See p ??

<sup>55</sup> Schönteich M. and Steinberg J. *Attacks on Farms and Smallholdings : An evaluation of the rural protection plan* (Institute for Security Studies, Pretoria, 2000) p 19

better understanding of the nature of crime on farms and smallholdings' (p 3). The report presents (in Chapter 2) an overview of the security structures (police and army) which coordinate activities at four levels – ground, area, provincial and national – and the structure of the commando system (from unit level to national command by the Chief of Joint Operations of the SANDF). This is followed by a brief review of the rural safety summit in 1998 and of Government reports on farm attacks (chapters 3 and 4), before moving on to summarise research findings. The specific areas dealt with in the research are those of Piet Retief (Mpumalanga), Greytown (KZN), Ixopo (KZN) and Wierdagrug (Gauteng) – the three provinces worst affected by attacks on farms and smallholdings (p 2).

There are specific aspects of this monograph, particularly relating to violence linked to land in the areas researched, which will be taken up elsewhere in this report. Regarding the workings of the Rural Protection Plan, the authors summarise their findings (p 3-4) as follows:

'It was found that the rural protection plan's effectiveness to combat attacks on farms and smallholdings varied from area to area. In the country's rural areas, where farms are far removed from the nearest police station or army base, the plan's success depends primarily on strong civilian participation.

'In the event of a farm attack, it is normally only the victim's neighbours who can respond rapidly enough to apprehend the culprits. By the time the security forces arrive at the scene of a farm attack, the culprits have usually fled.

'Given that the police and the army do not have a rapid response capability in the country's rural areas, it is crucial that farmers and smallholders themselves – through the organized structure of the South African National Defence Force's commando system or the police's reservist system – take greater responsibility for their, and their community's safety.

'The police's primary contribution in combating farm and smallholding attacks is in its detective and intelligence functions. In some areas, the detective service functions well and many farm and smallholding attackers have been apprehended and convicted by the courts. There are, however, other areas where the police are performing poorly in this regard. This is frequently the case where the perpetrators of farm and smallholding attacks operate from outside of the area where the attack takes place, and local detectives have to co-operate with their colleagues in other parts of the country. Interregional co-operation in the detective service needs to be improved

'An important weakness of the rural protection plan is that the police – and the security forces generally – have weak intelligence gathering capabilities.<sup>56</sup> This is especially so in rural informal settlements and squatter camps from where farm and smallholding attacks are often planned, and to where many culprits flee after an attack. The security forces need to improve their intelligence gathering capabilities to be in a stronger position to pre-empt attacks on farms and smallholdings.

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<sup>56</sup> This conclusion may not be valid generally: Material in police files accessed by lawyers, some of which formed the basis of cross-examination of police and intelligence agents in court during a trial relating to violence in Richmond in KZN in 1998 (the State vs Nkabinde and Mbele) suggested that there was no shortage of intelligence agents in the area at the time when some attacks took place.

‘The rural protection plan is a good mechanism to drive and co-ordinate safety initiatives for the country’s farms and smallholdings. There are, however, aspects of the plan which can be improved.<sup>57</sup> Moreover, while the plan provides a sound framework for rural safety, the individual components of the plan must be adapted to local needs and capacities. Crucially, the plan needs to be accepted by local communities. Without their ongoing participation in the plan, its effectiveness is limited’.

**Steinberg J.: An assessment of the rural safety plan in the Lethaba and Mooi River Area (Centre for the Study of Violence and Reconciliation, 2000)**

Steinberg has also produced a paper on his research on the Rural Safety Plan in the Letaba area of the Northern Province (Limpopo), and that of Mooi River in the Northwest Province.

The Letaba area was viewed as being the least effective of those areas researched, insofar as civilian contributions to the plan (through participation in commandos, for example) were concerned. A crucial factor in this regard appears the ‘very low esteem’ in which security forces, especially the police, were held, and many farmers had made alternative arrangements about their security; 50% or more of the farmers in the area had joined the vigilante group Mapogo a Mathamaga. However, the Maake murder and robbery unit had – including through its informer network – made arrests in 45% of the 20 farm attacks committed between 1998 and 1999 (p i). (In terms of figures cited by the police, this percentage appears low, especially as arrests do not necessarily lead to convictions). Although most farmers interviewed believed that attacks were ‘motivated by land restitution claims’, evidence suggested that the attacks were criminally motivated. Also, black businesses in nearby villages were similarly affected. According to the author there was no evidence to support any hypothesized link between attacks in the Letaba area and urban organized crime (p ii).

In contrast to Letaba, ‘relations between organised agriculture and the security forces’ in the Mooi River area of the North West, were found to be ‘cordial and cooperative’, with good participation in Rural Safety Plan structures by agriculture, and a ‘highly visible’ presence by security personnel (p ii). The area is vast, and includes both large commercial farms in more isolated areas and smallholdings near urban centres such as Klerksdorp and Potchefstroom. While participation in commando structures varies (some have refused to join because of ‘animosity towards the SANDF’) those eschewing commando involvement may participate in rural safety plan structures through networks organized by TAU. The Klerksdorp murder and robbery unit, which has jurisdiction in the Mooi River area, is particularly successful, with an over 80% arrest rate for farm attacks. As in Letaba, farm attacks in this area appear to be motivated primarily by robbery.

**Human Rights Watch: Unequal Protection – The State response to violent crimes on South African Farms (2001)**

As mentioned, the question of the general effectiveness of the Rural Protection Plan and its impact on black farm workers and other rural residents, is a recurring theme in the Human

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<sup>57</sup> The authors point to the benefits of including workers in the plan, for example, but acknowledge potential difficulties of doing so because of a lack of sufficient trust between farmer and worker in many cases – p 50 – 51.)

Rights Watch report summarized above. Noting that President Mbeki, after a meeting with representatives of Agri-SA in February 2000, had committed the government to re-activating the Rural Safety Task Team, 'which would in the future function within rather than outside police structures' (p 168), HRW presents the results of its own enquiries into the working of the Rural Safety Plan (p 168-177), which can be summarized as follows:

- Visits to police stations in KZN and Northern Province (Limpopo) had illustrated the type of problems, linked to lack of resources, experienced by the police in visiting commercial farms within their areas of jurisdiction on a regular basis, as required by the RPP. 'Because of the infrequency of the visits, many farmers see this system as more or less useless'.
- Due to problems relating to the role of the police, the 'security cell' system of linking geographically close farmhouses by radio, known as 'farmwatch', often played a more important role than policing initiatives, operating as a 'virtual police force'. Farmers' association self-help initiatives had extended to the launch, in August 1999, of the Agri-Securitas Trust Fund, aimed at generating funds for rural protection.
- Citing the research by Schönteich and Steinberg, HRW notes the considerable variation in involvement by farmers in commando and farmwatch activities. At their most active, commando units would engage in 'several vehicle patrols a night, roadblocks once or twice a week, and checkpoints looking for illegal weapons even more frequently'. Informers might also be used to obtain information about illegal weapons and stock theft (p 171). While commandos should always operate under police control, in practice they often operated independently, keeping police informed about their movements, but at the same time not subject to monitoring by a body such as the Independent Complaints Directorate.
- Insofar the use of private security companies is concerned (some statistics are given on p 174-5), there were problems with levels of training, and conditions under which guards were armed, as well as a lack of adequate regulation of this sector, which permitted those so inclined to 'operate virtually as vigilante groups' (p 175). The report acknowledges, however, that moves were underway to improve the regulation of the sector (p 176). Relationships between security companies and police varied, with some 'overstretched police stations' receiving assistance from companies guarding farms, while other security force members complained of companies acting 'above the law' (p 177). Private security companies might be drawn into the Rural Protection Plan and might attend meetings of GOCOCs (Groundlevel Operational Coordinating Committees), and take part in joint operations such as searching for stolen livestock with police and commando members (p 177).

The point is made that 'the mix of different security systems mobilized for rural safety varies across South Africa for reasons of historical tradition'. For example, in the KZN coastal sugar farming region, where farms are 'relatively small', private security companies may be used, as opposed to 'remote areas' of low rainfall, large farms and small profit margins, where, because of the costs of private security, the commando system is used. In an area such as Gauteng, 'where commando units tend to be less under the control of farm owners and to have more black members', farmers tend to use private farmwatch initiatives, incorporated into the rural protection plan through the GOCOC's (p 178).

The report notes that the GOCOCs (established under the RPP), like the Community Policing Forums (CPFs) provided for in the SA Police Service Act, are intended to increase public

involvement at police station level. However, there is a lack of confidence in CPF structures. 'In many areas, it seems that there is an effective racial division between the GOCOCs and the CPFs', with the former being perceived as catering for the needs of white farmers, with the latter directed at the black community. In other words, there is a problem of racial representivity on Rural Safety structures, including commandos and reservists (p 180). The report suggests that lack of trust of blacks by many whites inhibits the development of truly nonracial structures. There was, for example, only one black commando unit head in the whole country (in the former Transkei) at the time of writing the report. Examples of attempts to bridge racial divides in commando units, and through their operations (e.g. assisting with crime in 'tribal' areas) are given (p 181-2). Despite these problems there are, however, some areas – Greytown in KZN is a case in point – in which the RPP is well organized, and is bringing police, farmers, and commandos together in a 'very structured fashion', while trying to extend assistance beyond the white community' (p 183).

In its conclusions, the HRW stresses the need for a 'comprehensive evaluation' of the RPP from *all* points of view, i.e. workers and those living in surrounding black areas as well as farmers themselves – for not only has the plan not met the security needs of farmers, but it has 'actually increased insecurity for other sectors of the population in some areas' (p 231), including through abuses by commandos and private security personnel. To meet the needs of *all* members of farming communities, a restructuring of the RPP – with responsibility for people's protection resting with the police, and not the army and its commandos, who should play only a supporting role to the SAPS.

### **Steinberg J: Midlands (2002)**

In 2002 Jonny Steinberg, a journalist and independent researcher, whose work on the Rural Safety Plan is referred to above, and who had also made a submission to the Committee, published the book *Midlands* on farm violence. The area about which he writes - Ixopo - had already featured in the monograph he had co-authored with M. Schönteich, while the Human Rights Watch report summarized above, also devotes a chapter to a case study of the area concerned.<sup>58</sup> In this book Steinberg explores the nature and meaning of farm violence through focusing on one particular case, using the pseudonym 'Peter Mitchell' for the young man who was murdered in Natal in October 1999.

Steinberg in fact uses pseudonyms for all the characters and even places in his book. He calls the father of the deceased man 'Arthur Mitchell', and he says that 'there are people living on his land who would like to kill him' (p x). This reason is not very convincing, however, since the murder received widespread publicity and anyone with any knowledge of the area and of the farm attacks which have taken place there, will find it relatively easy to identify the characters. Steinberg also finds it 'deeply troubling' to use the name of the man accused of the murder, apparently oblivious to the fact that the man had already been found criminally responsible for the killing at a judicial inquest a year before the book was written.

The Committee has decided, however, to maintain the pseudonyms given by Steinberg. The family of the deceased have informed the Committee that the publication of the book has

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<sup>58</sup> Schönteich M. and Steinberg J. *Attacks on Farms and Smallholdings: An evaluation of the rural protection plan* (ISS, 2000) Chapter 7; Human Rights Watch 2001 *Unequal Protection : The State Response to Violent Crime on South African Farms* (2001) p 218.

caused them considerable grief. The book not only lays some culpability for the death of the son at the door of the father, but it contains hurtful (and in the Committee's opinion, gratuitous and irrelevant) references to the parents, their relationship and their home.

Before the publication of the book, Committee members had already interviewed the parents of the murdered 'Peter Mitchell', the survivors of another farm attack in the area, as well as the workers on their farms, and had added the Mitchell case to the list of those warranting special attention. Interviews were also conducted with various police officials, and the police docket was studied in detail. Given the fact that *Midlands* is supposedly devoted to unravelling the complexities surrounding one particular murder, the book is rather sketchy in its coverage of the known facts of the case, to the point of being inaccurate in places. It may therefore be useful to set out the facts of the case as found by the Committee, before analysing the book itself.

### *The murder of Peter Mitchell*

Arthur Mitchell, his wife and son had been living on their farm, which Steinberg names 'Eleanor', since 1996. There are a number of other white farmers in the area, which adjoins black-occupied reserve land (which Steinberg names 'Izitha'), and there have been a number of attacks on farmers in the area, as well as a number of murders of black people in nearby areas.<sup>59</sup> Adjoining Eleanor is the farm 'Normandale' which had been owned by a man called 'Steyn', who reputedly had had a poor relationship with local black people. There had been three attacks on people who had managed the farm for Steyn during 1996 and 1997. In February 1999, some time after Steyn himself had left to live elsewhere, Mitchell senior bought the farm from him.

There were a number of black families, including two which feature prominently in accusations about the murder of Peter Mitchell, living on Normandale when Mitchell bought the farm. The new owner told these families that the 100 hectares on which they lived ('Langeni') would remain theirs, and he offered them preference when casual workers were employed. However, he laid down certain rules which, he says, were not new, but had been in operation under the previous ownership. There should be no further building without his permission, as he did not want unrelated people moving on to the land, and he requested (but was not given) the names of people living there. Since a game farm was to be established, cattle would not be allowed to graze outside Langeni. Families were limited to five head of cattle, although this seems to have been a rule of thumb not enforced in practice.

During the months following on the purchase of Normandale, a cottage on the farm was burnt, cattle belonging to Mitchell were stolen (a common occurrence among both black and white residents of the area) and fences were constantly cut. According to Mitchell, by August 1999 there had been 21 incidents, with 14 police dockets opened. The families on the farm appeared to enjoy a close relationship with a prominent local ANC politician and businessman. At the time of the 1994 elections this politician had reportedly promised local black people that the land taken by white farmers would be returned to them. (The question whether or not this was in fact said and, if so, by whom, remains in dispute among local people.)

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<sup>59</sup> One of the attacks in this part of the Midlands, that on Mr and Mrs Ur, was the subject of a case study by the Committee – see p 135..

Peter Mitchell, aged 28, was farming with his parents and they were in the process of building a house for him and his prospective wife on their farm, when he was murdered. Either he or his father made a daily journey, which involved travelling on a dirt road which wound its way through thick bush, to inspect the vegetables which were being grown under irrigation near the river. On 11 October 1999 Peter Mitchell made that journey, and was murdered in an apparent ambush. His body, slumped in his vehicle and with his foot still on the brake pedal, was found around 15:00 by a construction worker. (Steinberg gives a different time.) He had been shot in the head from the rear left, possibly through the back window. His body had been moved to one side, apparently when his gun was removed from its holster at his waist.

The father of the deceased, and also some policemen, maintain that the murder weapon was a shotgun – which is accepted without question by Steinberg. In support of the view that a shotgun was used, reference is made to a shotgun which had been stolen from the Mitchells some time before the murder, and to a sworn statement by someone who had heard from one of those accused of the murder that this same shotgun had been used. According to Arthur Mitchell, when this shotgun was stolen, it had ammunition in its sling capable of causing the type of damage (in terms of entry and exit wounds) inflicted on his son. Furthermore, a wad from a shotgun cartridge was found in the deceased's vehicle. The head rest of the vehicle had bullet holes in it and, according to Arthur Mitchell, it was also sent away, but there is no mention of it in the docket.

However, it seems more likely that another type of gun was used. Available evidence suggests that more than one gun was used at the scene of the crime. Although the deceased was shot from the left, at least one shot was fired from the right, but did not hit him. The nature of the injuries sustained supports the view that the murder weapon was not a shotgun. A member of the ballistics unit who attended the post-mortem examination, is quoted as saying the shooting from the right (i.e. which did not hit the deceased) was probably from a shotgun or a homemade firearm taking a shotgun cartridge. This member was also of the opinion that the deceased had been shot with a high powered weapon. The first police member to attend the scene noted that the injuries were 'probably' caused by a revolver. A perusal of relevant documentation, including statements taken at the scene of the crime and the post-mortem report detailing the nature of the injuries, and discussions with the doctor who performed the post-mortem and other forensic experts, support the view that the deceased had been killed by a bullet and not a shotgun blast.

The deceased's father heard the news of the killing over the farmers' radio network, and when he reached the scene he found a number of people, including police members and farmers, present. According to Arthur Mitchell, the crime scene was badly handled, especially in respect of ballistics and fingerprints. The police have denied this allegation, but there are conflicting versions of whether or not fingerprints were found. According to the docket, a fingerprint was uplifted but no report is on record as having been received. With regard to forensic evidence, apart from the shotgun cartridge wad found the following day in the vehicle, a total of four pieces of bullet shrapnel were found by police attending the scene and sent to the police forensic science laboratory for analysis but, due to their size and damage, their calibre could not be determined.

In April 2000 the first investigating officer (named 'Wessels' by Steinberg) arrested 'Mduduzi Cube' and one 'Madiba', both residents of Langeni, for the murder of Peter Mitchell. A third suspect, 'Bheki Cube', Mduduzi's son, could not be found. Three firearms were confiscated

during the arrest: a .303 rifle, a 9 mm. pistol (both licensed) and a homemade shotgun. (Steinberg only mentions two firearms). These guns were sent to the SAPS forensic science laboratory in May 2000 for tests and to determine whether they had been used in any crime committed. The ballistic report is not in the police docket, but the Committee arranged for a copy to be faxed to it from the laboratory. According to the report, the two licensed firearms were tested and it was found that they functioned normally. There is no mention of any further tests having been done to ascertain their use in other crimes. The shotgun apparently had a fired cartridge in the chamber when it arrived at the forensic laboratory, but it was impossible to determine whether the shotgun had actually fired it.

After his arrest Mduduzi Cube denied guilt, but co-accused Madiba made an inculpatory statement with a view to turning State witness. In his statement Madiba said that the accused, Mduduzi Cube, had supplied the guns and that Bheki had shot Mitchell. Madiba claimed to have been present when the murder took place. It is alleged that while the two men who had been arrested were being detained without bail, a police member from the station near their home, also with the surname Cube, tried to book them out of the cells. According to the police a case was opened against this member, but he died shortly afterwards.<sup>60</sup>

On 2 May 2000 police members, including Wessels, went to the homestead of accused Mduduzi Cube, where they found the Bheki and arrested him. They then questioned him and after he agreed to point out a gun used in the killing, he was taken away to dig for the gun. While digging, however, he reportedly pulled a handgun out of a bag and started cocking it, and at the same time threw the hoe he was using for digging at a member of the police. He was then shot dead. The case was investigated by the Independent Complaints Directorate (ICD) and, according to the head of the police unit concerned, the members were cleared of any blame at a judicial inquest.<sup>61</sup>

When the court remand date arrived the two accused, Mduduzi Cube and Madiba, were released for lack of evidence. In January 2001 the .303 rifle and the 9mm pistol taken from the home of Mduduzi Cube were returned to him after an inspection of the property had determined that the licensed owner had a suitable gun safe. (There seems to be some irregularities with the issuing of the licences, but that is not relevant for the present purposes.<sup>62</sup>) Questions were raised about the failure to prosecute anyone for the possession of the homemade shotgun but, according to the commander of the unit investigating the case, it had been found abandoned on a roof in the same vicinity as the subjects and there was 'no direct connection between the firearm and any individual'.

Later in the year other statements (mainly hearsay) were taken, which implicated those who had previously been accused of the murder, but in April 2001 the office of the Director of Public Prosecutions declined to prosecute anyone for the murder of Peter Mitchell. A judicial inquest was held in Ixopo on 23 July 2001. Various witnesses gave oral evidence at the inquest court found that Mduduzi Cube and Bheki Cube were in fact responsible for the death of Mitchell. By this time Mduduzi had disappeared and has still not been found. (It should be pointed out that the burden of proof at an inquest differ from that at a criminal trial: in the former, guilt must be proved beyond a reasonable doubt, in the latter on a balance of

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<sup>60</sup> Letter from office of the Commander, SAPS Murder and Robbery Unit, Port Shepstone, dated 25 September 2002

<sup>61</sup> A civil claim against the police has been instituted by the family of the deceased.

<sup>62</sup> Letter from office of the Provincial Commissioner of the SAPS, KwaZulu-Natal, dated 25 November 2002.

probabilities.) According to Arthur Mitchell he was not notified about the inquest and only learned of it after it had taken place. However, the Commander of the investigative unit contends that he was informed, and he was told that despite the fact that an inquest was taking place the case would not be closed but investigations would continue.

*Steinberg's interpretation of events surrounding the death of Peter Mitchell*

Steinberg refers to specific incidents of farm violence in the months following the 1994 election, noting that the meaning of this violence 'has never been clear' and that, although the motive in the vast majority of attacks appears to be robbery, 'so many attacks are accompanied by seemingly gratuitous violence, the violence itself performed with such ceremony and drama, that the infliction of painful death appears to be the primary motive' (p vii). Farm murders tamper with the 'boundary between acquisitive crime and racial hatred' (*ibid*). He also deliberately presents it as a 'racial frontier' (p ix) and he quotes the manager of the Farm Watch describing the area as 'border territory' (p 91).

Ownership and use of land is the central theme of Steinberg's explanation of why Peter Mitchell was murdered: 'Those who murdered Mitchell did so in order to push the boundary back, a campaign their forebears had begun in the closing years of the nineteenth century, and which their great-grandchildren believed it their destiny, as the generation to witness apartheid's demise, to finish.' (p ix) However, linked to the land issue is, he argues, the provocative behaviour on the part of the father of the murdered man. He suggests that it was the circumstances of the departure of the previous owner of the farm Normandale, Steyn, which shaped the tragic events which led to the death of Peter Mitchell (p 38). Steyn had allegedly told his tenants on 'look after' his farm, and had not informed them when it was subsequently sold to Mitchell. According to Steinberg, the tenants had assumed that 'looking after' the farm meant it was theirs. (This is somewhat farfetched.) After Mitchell bought it he met with the tenants and laid down certain rules, as indicated above. (Mitchell himself points out that these rules were not new but had been in operation under the previous owner.) Since the farm was to be turned into a conservancy, cattle were not to graze on it outside of designated areas, and would be impounded if they did; nor was poaching permitted. The tenants, said Steinberg, had thus become trespassers on land they had believed was theirs (p 24 *et seq*).

Referring to Arthur Mitchell's rule that each family would be restricted to five head of cattle, Steinberg cites a tenant on another nearby farm, who says that 'you die (if) you have no cattle and your sons cannot marry', and you will not have grandchildren of your own because *ilobolo* has not been paid. While this tenant may be citing the ideal (rather than the statistical) norm relating to marriage and bridewealth, the fact is that culture changes constantly, adapting to structural change. The twentieth century saw a dramatic change in African family structures, with large numbers of children being born out of wedlock and cash in lieu of cattle becoming a widespread mechanism for meeting *ilobolo* obligations.<sup>63</sup>

Arthur Mitchell, according to Steinberg, knew little about the tenants' rules, and he broke them – 'sacred ones, ones that for his tenants were a matter of life and death'. Would his son

<sup>63</sup> Restrictions by farmers on numbers of cattle kept by tenants is usual: see, e.g. Johnson R.W. and Schlemmer L. *Farmers and farmworkers in KwaZulu-Natal* (1998) p 31. Concerning cattle and bridewealth, see De Haas M. 'Is there anything more to say about Lobolo?' (in *African Studies* 1987 Vol 46,1 p 33-55 .)

still be alive if his father had known the rules, he ponders? (p 52) Mitchell broke these rules by decreeing that new structures could only be built for family members, in which case he would need to make a personal inspection; this perceived interference was seen as being humiliating to the tenants. Furthermore, the request for a list of family heads and members living on the property, and talk about photographs of homesteads being taken at a later stage (they never were), were seen by tenants as a ‘mechanism of surveillance and policing’ (p 237).

The laying down of rules by Mitchell and his purported breaking of community rules had to be viewed in the context of community perceptions of land dispossession – and according to Steinberg there wasn’t a single person in the area who didn’t have dispossession ‘seared on his consciousness’ (p 63) – and expectations that land would be returned to black people after 1994.

Steinberg argues that Arthur Mitchell’s plans to enumerate members of households living on Normandale farm assume a particular salience in regard to land issues. He cites residents of the area making vague references to a census during earlier times, then finds confirmation of what they had been talking about in the account of the 1906 Bambatha Rebellion in the then colony of Natal in the book *Reluctant Rebellion*, written by the prominent historian Shula Marks. This rebellion, led by a chief from the Umvoti area of the colony (near Greytown, north of the Tugela river), stemmed from the imposition of a poll tax by the British Colonial Government. This poll tax had been preceded by a census aimed at establishing how many adults lived in different homesteads, with a view to levying tax. Steinberg cites resistance to the census and proposed tax in the Izitha reserve area near Mitchell’s farm, not long before the rebellion, which had led to the punishment of two chiefs in the area, and the splitting of their chiefdoms – which, he infers, facilitated the take over of land by white farmers.

Steinberg seems to have oversimplified the historical context and stretched the historical facts somewhat. He appears to be talking about two chiefs named Tilonko and Msikofel.<sup>64</sup> The influence of the former was mainly in the Richmond/Ixopo area, and the seat of the latter was Bulwer (which does not feature in Steinberg’s geographic focus) – although, because of the scattered nature of chiefly authority in the area, he was theoretically in charge of the Izitha area. However, since the 19<sup>th</sup> century, chiefs have not wielded as much power in the areas of which Steinberg writes as they have in some other parts of the province, because of the strong mission influence which raised educational levels and also the presence of numerous areas of black-owned freehold land.<sup>65</sup>

### *Critique of Steinberg*

For Steinberg’s explanation of why Peter Mitchell was killed to have credibility it would need to be shown convincingly that individual killers were motivated by the factors to which he refers, or were paid to carry out the killing by others who harboured such feelings. This Steinberg does not do. While circumstantial evidence points to the two men who were found responsible for the murder at the judicial inquest, their culpability – let alone motive - has not been established beyond reasonable doubt in a criminal court of law. Furthermore, even if a

<sup>64</sup> Marks S. *Reluctant Rebellion: the 1906-1909 disturbances in Natal* (Clarendon Press, Oxford, 1970) p193

<sup>65</sup> Zulu P. *An Identification of Base Line Socio-Political structures in Rural Areas, their operation and their potential role in community development in KwaZulu* (University of Zululand Research Institute report, 1984)

motive of this nature on the part of the killers had been established, it might simply be a private grudge not shared with members of the wider community.

However, leaving aside the motives of the killers, Steinberg suggests that there is some sort of community consensus that the killing can be attributed to 'rules' being broken and to issues around land. The Committee's own enquiries in this regard, however, had a completely negative result. While no formal research, such as random, questionnaire-based interviews, was undertaken, the matter was investigated by a social scientist, with detailed knowledge of the local social dynamics, and two research assistants with extensive networks<sup>66</sup> in the area about which Steinberg writes, exploring local perceptions about why Peter Mitchell had been murdered.

No one mentioned the factors which Steinberg suggests are common knowledge, viz. the supposedly unacceptable rules and the land issue. Talk at the time of the murder rather was that it was either the work of criminals whose activities were well known and feared (and who, it was believed, had attacked a shopkeeper not far from the Mitchell farm, causing him to cease business operations to the benefit of the local shack shop). Others said that it was a personal grudge against the Mitchells because of the impoundment of cattle. That persons believed to be linked to the murder are feared among black residents, also emerged from interviews with farm workers in the area, as well as from notes in the police docket.

The matter was even broached with members of the family of one of those accused of the murder. During a discussion with a research assistant, a family member of one the accused spoke freely about the rules which Mitchell senior had laid down and, while not admitting his relative's involvement, strongly denied that they would have had anything to do with the killing. In fact, not only he, but members of the broader community, maintained that there had been no problems with the Mitchell family until *after* Peter Mitchell was murdered.

The whole question of land, on which Steinberg's explanation rests, did not feature in the commonly shared perceptions about the murder and no-one referred to the events surrounding the Bambatha Rebellion. According to a man who is involved in community affairs in Izitha, although Chief Msikofel is remembered by some of the mainly older people (rather than the newer generation about which Steinberg writes) as having adopted a confrontational approach to white authority, his memory is linked primarily to the fact that he was eventually hanged, apparently for engaging in witchcraft against another chief!

The farmers in the area hold a person, called 'Paul Mlambo' by Steinberg, responsible for the killing of Peter Mitchell. He is a political strongman and also an *induna* for the chief of the area. Steinberg says that when he asked him whether Peter Mitchell had been killed because his father was an unfair employer, Mlambo denied it, but he 'answered much too quickly (and) stumbled on his syntax'. Yet Steinberg asks himself: 'How did the white men who gave me my first impression of Mlambo get things so utterly wrong?' and he sees stories about Mlambo as a 'violent parody of intelligence work' (p 169). Unfortunately, Steinberg does not give any grounds upon which he bases his strong opinion on the matter.

The problems inherent in trying to unravel what appears an extremely tangled skein of events, were illustrated by allegations that tensions and rivalries *within* one of the families linked to the killing had led to people spreading false stories, especially when the father of the deceased had offered a reward for information leading to the identification of his son's killers. There is

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<sup>66</sup> Network research is a well established method which spread from anthropology to other disciplines; see, for example, Boissevain J. *Friends of Friends* (Blackwell, London, 1974)

simply insufficient evidence to reach any valid conclusion about the motive or motives for this murder – let alone theorise about killings in the area, and farm killings in general. The killing may well have been the result of a revenge attack, or it may have been an act of intimidation. Then, again, it might have been an act of robbery. All one can say is that at least two assassins were involved, and that they probably had some knowledge of the area in which it took place. Only a firearm was stolen, the wallet being left behind, but there are many other farm attacks where exactly the same thing happened and where it can be said with a fair degree of certainty that the motive was robbery.

The book is written for a popular readership rather than an academic one and, while it contains many of the author's own interpretations, it lacks the type of analysis which should characterize a work which purports to be factual. The author draws rather selectively on historical material, without any proper referencing, to seek the roots of what he sees as conflict between black and white in the area, but at the same time he seems unaware of a great deal of important background material relating to political dynamics and conflict in the area, and even of earlier murders of farmers in nearby Richmond.<sup>67</sup> This is a crucial omission, since the political context – and its interface with crime - is integral to his argument. For example, while he is correct in saying that there was little political violence in the reserve area he calls Izitha, it was by no means absent from the areas which feature in the book in the early 1990s. More recently, a well-known Midlands warlord has allegedly been involved in bringing guns into the area about which Steinberg writes.<sup>68</sup>

Steinberg's use of pseudonyms, even for historical figures and places, further complicates matters, and makes proper verification difficult. One of his important sources of both facts and opinions, 'Elias Sithole', (see p 110-129) is in fact two figures rolled into one (p ix). Some of the other informants were clearly not very creditable, several of them having their own skeletons in the cupboard.

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<sup>67</sup> Osborne H. 'Richmond: The war continues' in Minnaar A. (ed) *Patterns of violence: Case studies of conflict in Natal* (HSRC, Pretoria, 1992)

<sup>68</sup> With regard to the violence of the early and mid 1990s, a prominent ANC leader was assassinated enar Ixopo, and both IFP and ANC supporters were victims in violence – see Jeffrey A *The Natal Story: Sixteen years of conflict* (South African Institute of Race Relations, 1997) p 346-7, 474-5; and *Natal monitor* Vol 2 nos 9 and 10, 1992. Caprivi trainees were active in the area – see Truth and Reconciliation Commission Report (2003) Vol 6 Section 3, chapter 3. With regard to more recent movement of guns in the area, see *The State vs Zulu*, High Court Appeal Case reference no AR 933/02.

**REPORT OF**

**THE COMMITTEE OF INQUIRY**

**INTO FARM ATTACKS**

**Volume III**

## CHAPTER 11

### THE FARMING COMMUNITY IN SOUTH AFRICA

#### INTRODUCTION

This chapter provides an overview of the position that farmers and farm workers occupy in the South African economy and broader society. The difficulty with calculating the number of farms, farmers and farm workers is discussed. To determine the incidence of farm attacks, and the risk the farming community faces being victimised by farm attackers, it is necessary to quantify the number of farms and the people who live on them. The various agricultural organisations are also discussed.

#### FARMERS

##### Economic activities

In the past South Africa's agricultural sector was highly regulated with subsidies and financial concessions available to farmers. Since 1980, there has been a gradual reduction in agricultural support measures. In the late 1990s this process has gained momentum. Export subsidies have been phased out, and agricultural control boards that guaranteed secure markets for farmers disbanded. Today the sector has to respond to price signals in a free market.<sup>1</sup>

According to South Africa's 1996 constitution, agricultural support to farmers is vested in the provincial governments, which provide farmers with a range of services. The National Government retains the overall regulatory and policy functions, and agricultural trade and marketing.

The Department of Agriculture (at national level) seeks to ensure equitable access to agriculture and to promote the contribution of agriculture to the development of communities and the national economy, in order to enhance income, food security and employment. The Department of Agriculture also promotes the development of the small-farming sector.

The Department of Agriculture (through the Directorate: Farmer Settlement and Development) controls and administers some 668 million hectares of State agricultural land. The primary goal of the Directorate is the internal administration of State agricultural land with the aim of farmer settlement and ownership reform. State agricultural land is divided as follows:<sup>2</sup>

- 582 million hectares of land expropriated by the South African Development Trust and,

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<sup>1</sup> Government Communication and Information Service *South Africa Yearbook 2001/02* (Pretoria, 2002) p 57.

<sup>2</sup> *ibid* 73.

- 87 million hectares of commercial land purchased from insolvent estates and properties transferred by the Department of Public Works.

About 13% of South Africa's surface area can be used for crop production. High-potential arable land comprises just over a fifth (22%) of the total arable land. In 1996 commercial farmers owned 64.7 million hectares or 79% of the available commercial farming area. They rented or leased 16.8 million hectares (20%), and 0.7 (1%) million hectares were farmed on shares.<sup>3</sup>

Primary agriculture contributes about 3.2% to the gross domestic product (GDP) in South Africa, and provides almost 9% of formal employment. However, there are strong interrelated linkages between the agricultural sector and the rest of the economy so that the 'agro-industrial sector' is estimated to comprise 15% of GDP. Despite the farming industry's declining share of GDP, it is crucial to the economy, development and stability of the southern African region. The various sectors of the industry employ some one million people.<sup>4</sup>

In terms of the gross geographic product (GGP), in 2000 the agricultural sector produced the most in the Western Cape with R5.6 billion, followed by Mpumalanga (R3.5bn), the Free State and Eastern Cape (R3.1bn each), KwaZulu-Natal (R2.9bn), North West (R2.4bn), the Northern Cape and Limpopo (R1.7bn each) and Gauteng (R1.4bn).<sup>5</sup>

According to Statistics South Africa's *1996 Agricultural Survey*, commercial farming generated a gross income of R32.9bn in 1996. More than R13bn (or 40%) of the total gross income generated was from commercial farming in animals and animal products. Horticultural products and field crops contributed 28% and 27%, respectively. Forestry products contributed 5%.<sup>6</sup>

### **Number of farming units and farmers**

According to Statistics South Africa's *1996 Agricultural Survey* there were 60 938 commercial farming units in South Africa; down from 62 084 in 1990.<sup>7</sup> (Note that the 1996 Agricultural Survey covered commercial farming activities only, and excluded the erstwhile TBVC states - Transkei, Bophuthaswana, Venda and Ciskei - as well as black 'homeland' areas.) In 1996 the Free State contained the highest number of commercial farming units (11 272 units or 18.5%), followed by the Western Cape and North West.<sup>8</sup> (See Figure 2.)

<sup>3</sup> Statistics South Africa *Agricultural Surveys 1994, 1995, 1996* (Pretoria, 1999)

<sup>4</sup> Government Communication and Information Service *South Africa Yearbook 2001/02*, (Pretoria, 2002) p 58.

<sup>5</sup> Kane-Berman J. (ed), *South Africa Survey 2001/2002* (South African Institute of Race Relations, Johannesburg, 2001) p 151.

<sup>6</sup> Statistics South Africa *Agricultural Surveys 1994, 1995, 1996*, (Pretoria, 1999) p v.

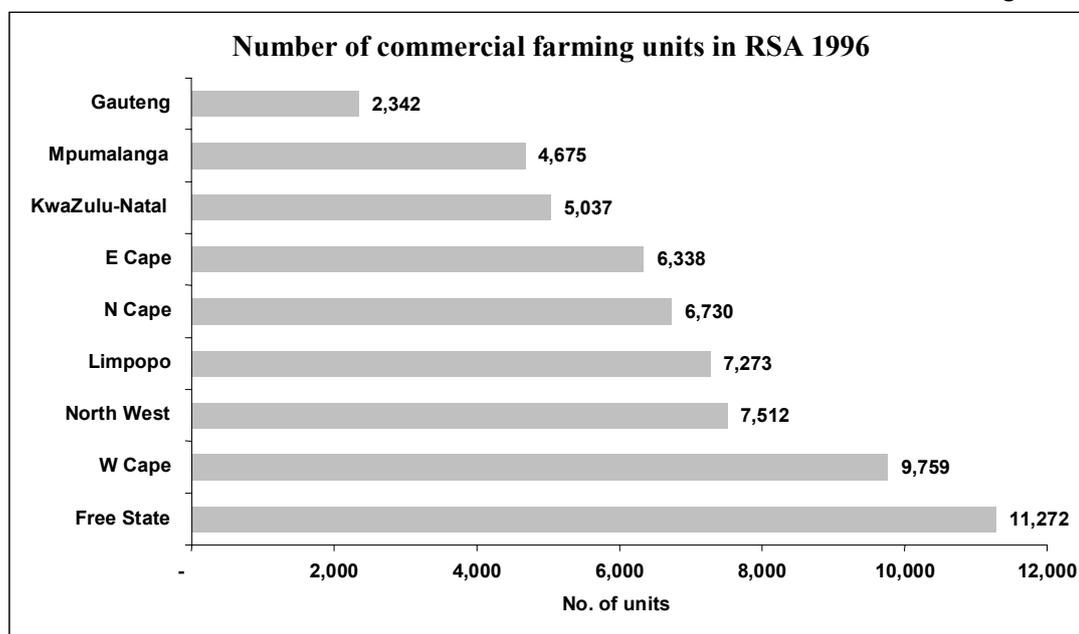
<sup>7</sup> The survey data was collected by way of a postal survey from a sample of approximately 6,300 farmers with a response rate of 74.2%.

<sup>8</sup> Statistics South Africa *Agricultural Surveys 1994, 1995, 1996*, (Pretoria, 1999) p iii

In 1996 the largest commercial farming units were recorded in the drier areas such as the Northern Cape, where most of the farming land is used for grazing purposes with an average size of a farming unit being 4,418 hectares. The smallest farming units were recorded in Gauteng, where the average farming unit was 323 hectares.<sup>9</sup>

In respect of the *1996 Agricultural Survey* a 'farming unit' consisted of one or more separate farms, holdings or portions of land whether contiguous or not, provided they were situated in the same magisterial district and operated as a single unit. Farms or portions of land situated in different magisterial districts were regarded as separate farming units. The number of farming units, therefore, does not represent the number of farmers, as a specific farming unit can be operated by more than one farmer, and one farmer can operate more than one farming unit.<sup>10</sup>

Figure 2



Source: Statistics South Africa

RSA: Excluding erstwhile TBVC states and black 'homelands'

It is consequently extremely difficult to estimate the number of commercial farmers in South Africa using survey data which is dated, geographically incomplete and which used methodologies that were not specifically developed to count the number of commercial farmers in the country. Nevertheless, submissions were made to the Committee by organisations which could make informed estimates of the number of commercial farmers in the country<sup>11</sup>:

- According to Agri SA, there were about 45 000 large-scale farmers in South Africa in 2001.<sup>12</sup>

<sup>9</sup> *Ibid* iii.

<sup>10</sup> *Ibid* p 65.

<sup>11</sup> See section below on '*Agricultural Organisations*' p 20.

<sup>12</sup> Oral submission to the Committee by Agri SA, Pretoria, 2001-07-04.

- The Transvaal Agricultural Union of SA estimates there were approximately 40 000 commercial farmers in South Africa in 2001, excluding farm managers who manage a farm for someone else.<sup>13</sup>
- According to Colonel B.J. Schoeman of the South African National Defence Force (SANDF), attached to Joint Operations, there were approximately 256 000 commercial farmers in South Africa in 2001.<sup>14</sup> Colonel Schoeman's estimate is based on the following sources and figures: Firstly, according to the South African Revenue Service (SARS) 253 000 people were registered as deriving their income from commercial farming during 2001. A further 91 300 people were registered as deriving their income from commercial farming and other occupations. Secondly, the Department of Land Affairs estimates that there are 523 000 commercial farms in the country of which ±65% are occupied (i.e. 340 000 occupied commercial farms).

The Committee grappled with the considerable discrepancies in the number of farmers in South Africa. Given this, it is impossible to accurately calculate the actual number of people living on farms and smallholdings in the country. This is unfortunate as a reasonably accurate figure of the number of farm and smallholding residents would permit a calculation of the risk farm and smallholding inhabitants face of becoming a victim of a farm attack.

## FARM WORKERS

No comprehensive picture of employment in the agricultural sector is available. According to official estimates for 2001 about 700 000 people were employed in the formal agricultural, hunting, forestry and fishing sector. Almost as many people were working in the informal sector in the broad agricultural sector. Some of these figures are likely to overlap with those of a 1997 rural survey showing that about 1.7 million households were engaged in farming in areas formerly designated as 'homelands'.

### 2001 Labour Force Survey

According to Statistics South Africa's *Labour Force Survey, February 2001*, 11.8 million people were employed in the formal and informal sectors in South Africa in 2001.<sup>15</sup> Of these, almost 1.4 million (11.8%) were employed in the 'agriculture, hunting, forestry and fishing' sector. Only the 'wholesale and retail trade' sector (24.6%), 'community, social and personal services' sector (16.9%), and the 'manufacturing' sector (13.7%) employed more people. (See Table 1.)

Of the almost 1.4 million people employed in the agriculture, hunting, forestry and fishing sector, 700 000 were employed in the formal sector and 653 000 in the informal sector (the remainder were unspecified).<sup>16</sup> Between 1996 and 2001 the number of employed persons

<sup>13</sup> Oral submission to the Committee by Transvaal Agricultural Union of SA, Pretoria, 2001-06-20.

<sup>14</sup> Oral and written submission to the Committee by Col. B J Schoeman, Pretoria, 200106-19.

<sup>15</sup> Statistics South Africa *Labour Force Survey February 2001* (Pretoria, 2001)

<sup>16</sup> *Ibid* p 26.

in the broad agricultural sector (formal and informal) increased by 593 000 or 78%. Overall, the total number of formal and informal jobs in all sectors of the South African economy increased by 28% over the same period. A break down of the racial composition of the persons employed in the agricultural sector in 2001 is given in Table 30.<sup>17</sup>

Table 30

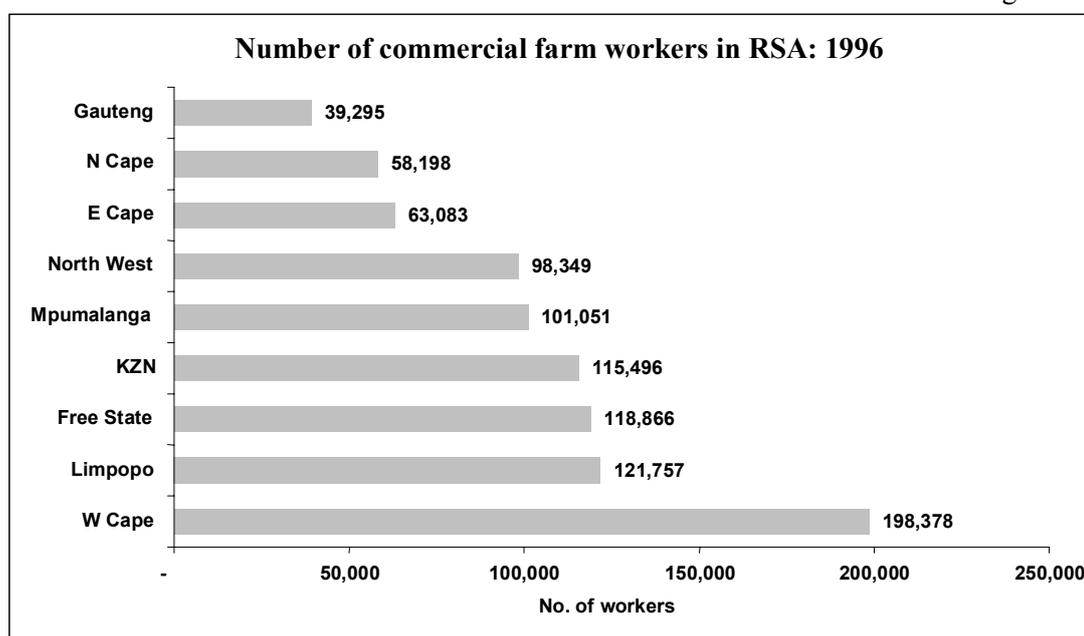
<b>Employment in the agricultural sector by race: 2001</b>					
<i>Sector</i>	<i>Black</i>	<i>Coloured</i>	<i>White</i>	<i>Asian</i>	<i>Total</i>
Formal	445 000	181 000	70 000	---	699 000
Informal	631 000	11 000	---	---	653 000
Total	1 076 000 (79.6%)	192 000 (14.2%)	70 000 (5.2%)		1 352 000 (100%)

Source: Statistics South Africa. The sample size for Asians was too small for reliable estimates.

### 1996 Agricultural Survey by Statistics South Africa<sup>18</sup>

According to Statistics South Africa's *1996 Agricultural Survey*, commercial farmers employed 915 000 workers in 1996; down from 1 185 000 in 1990. In 1996 a third of the employees were casual and seasonal workers. Western Cape farmers employed the largest number of people, Gauteng farmers the least. (See figure 3)

Figure 3



Source: Statistics South Africa  
RSA: Excluding erstwhile TBVC states and black 'homelands'

<sup>17</sup> *Ibid* p 29-31.

<sup>18</sup> The survey data was collected by way of a postal survey from a sample of approximately 6,300 farmers with a response rate of 74.2%.

Most of the farm workers were black (74.6%), followed by coloured (22.1%), white (3.1%) and Asian (0.3%) workers.<sup>19</sup> (The survey covered commercial farming activities only, and excluded the erstwhile TBVC states and black ‘homeland’ areas.)

### **1996 Census**

According to the 1996 national census, 814 000 people were employed in the agricultural sector. Of these 750,000 were employed in the agriculture and hunting sub-sector, 52 000 in the forestry and logging sub-sector and 13 000 in the fish farm sub-sector.<sup>20</sup>

Of the 814 000 agricultural sector employees in 1996, some 10 300 were employed as managers, while 23 700 employees had a tertiary educational qualification, and 46 700 a standard 10 (grade 12) level of education.

### **1997 Rural Survey<sup>21</sup>**

According to the *1997 Rural Survey* (which surveyed the rural areas of the former ‘homelands’ of South Africa only), some 12.7 million people lived in rural areas in the former South African ‘homelands’.<sup>22</sup> About 71% or 1.7 million households in the rural areas in the former ‘homelands’ had access to land for farming purposes. Of these about half (800 000 households) reported that the farming land they used for crops in the year prior to the survey was smaller than one hectare.

The overwhelming majority of the 1.7 million households (93%) were engaged in subsistence farming. Only 96 000 households (6%) who had access to farming land, actually sold crops including vegetable and fruit. Some 3% of the households who had access to farming land relied on farming activities for their main source of income.<sup>23</sup> Of the 902 000 households who had livestock, 18% were selling livestock.<sup>24</sup>

## **AGRICULTURAL ORGANISATIONS**

### **Background**

At the time of writing three unions represented the commercial agricultural sector in South Africa: Agri South Africa (Agri SA) with affiliates in all provinces, the Transvaal Agricultural Union of South Africa (TAU) with affiliates in certain provinces, and the

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<sup>19</sup> Statistics South Africa *Agricultural Surveys 1994, 1995, 1996* (Report no. 11-01-01, Pretoria, 1999) p iv.

<sup>20</sup> Statistical Tables, Appendix 2, <<http://www.nda.agric.za/docs/Employment/Appendix%202.htm>>, (24 May 2002).

<sup>21</sup> For the 1997 Rural Survey a total of 600 enumeration areas were drawn for the ten ‘homelands’, and ten households were selected from each enumeration area, yielding a sample of some 6,000 households.

<sup>22</sup> Statistics South Africa *Rural Survey, 1997* (Statistical release P0360, Pretoria, 1999)

<sup>23</sup> *Ibid* p 4.

<sup>24</sup> *Ibid* p 7.

National African Farmers Union (NAFU) with affiliates and associate members. The Agricultural Employers' Organisation (AEO) is an agricultural organisation which represents the interests of agricultural employers in the country.

Farmers can become members of organised agriculture in different ways. Normally farmers join a local farmers' association which is affiliated to a provincial agricultural union, which in turn is affiliated to a national union. Farmers' associations deal with local issues, while the provincial unions co-ordinate matters at provincial level and make recommendations regarding national matters to their national unions.

There are also a number of special commodity organisations, which are affiliated with either the provincial agricultural unions, or directly with a national union. Examples are commodity organisations for grain producers, wool growers, sugar-cane growers, poultry producers, timber growers and vegetable and fruit producers.

### **Agri South Africa<sup>25</sup>**

Agri SA claims to have more than 200 agri-businesses, some 45 commodity organisations and nine provincial agricultural unions as members. Agri SA seeks to create a favourable environment within which it is possible for farmers, as entrepreneurs, to be financially independent. Agri SA sets out its vision as follows: 'To be a vital link in the agricultural industry. As dominant role-player on the African continent, we serve as a model of excellent service delivery for local and international agricultural industries... (W)e strive for the interests of our members while also taking into account the interests of others... A community of producers and businesses who work together enthusiastically, with communal interests setting the tone... Rural communities are once again stable and safe, and to the State agriculture is the indisputable engine for an African Renaissance.'

Agri SA claims to represent 31 000 large-scale and 30 000 small-scale commercial farmers. A large-scale farmer can have more than one farm. Smallholders with the motive to generate a profit out of their agricultural activities can affiliate with Agri SA (e.g. flower producers through the Flower Growers' Association). Provincial associations have the autonomy to categorise farmers into small- and large-scale farmers. Agri SA acts as the national mouthpiece for all farmers and organisations affiliated to it, and to negotiate a favourable financial, social and security position for farmers within the national economy.

Part-time farmers – people who engage in farming on a part-time basis – are not included in Agri SA figures for commercial farmers. However, many part-time farmers associate with provincial farmers' unions and as such they are included in Agri SA's figures for the farmers they represent.

According to Agri SA about half its members (for both small- and large-scale farmers) are black. Agri SA's constitution places no racial restrictions on union membership.

In addition to representing farmers' interests, Agri SA also represents the interests of

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<sup>25</sup> Most of the material for this section was obtained from <www.agriinfo.co.za>, and a submission made by Agri SA to the Committee on 4 July 2001.

farmers' cooperatives. This is because both the farmers' associations and agricultural cooperatives are organised and controlled by farmers to promote their interests. According to Agri SA it, '(p)erforms its task in full dependence on God Almighty and in obedience to the Constitution and other laws that were enacted in a democratic and inclusive manner and are implemented fairly. Agri SA manifests and addresses its representations in the interest of members on a factual and merit basis and without party political considerations.'

The highest decision-making body within Agri SA is the union's annual congress, where all three legs of organised agriculture are represented (provincial unions, the cooperative movement and commodity organisations).

Agri SA's Provincial Chamber accommodates the provincial agricultural unions affiliated to it; the Commodity Chamber accommodates commodity organisations affiliated to Agri SA; and the Agricultural Business Chamber accommodates approximately 90 cooperatives and agri-business associates of Agri SA.

The Agricultural Business Chamber has its own bi-annual congress, council and executive committee. The members of the Provincial Chambers have their own annual congress as well as general councils and executive committees. Likewise, members of the Commodity Chamber have their own structure with annual or bi-annual congresses, general councils and executive committees.

Agri SA's structures of authority are supported by twelve functional committees. These small three-person committees are elected annually on the basis of expertise and knowledge. Each committee is administered and managed by a functionary who has expert knowledge in a specific field. The twelve functional areas handled by the committees are: agricultural marketing, trade and industry; labour affairs; economic affairs; land affairs; safety and security; communication; farmer development; development and transfer of technology; water affairs; constitutional development; environmental affairs; and training.

Agri SA represents agriculture on a number of official bodies such as the National Economic Development and Labour Council (Nedlac), the National Training Council, and the Agricultural Research Council. Every farmer who is a member of an Agri SA affiliated farmers' association receives Agri SA's monthly newspaper '*Die Boer / The Farmer*'. Farmers are also informed of Agri SA news through radio bulletins on *Radio Sonder Grense*, 18 community radio stations, and Agri SA's website.

### **Transvaal Agricultural Union – South Africa<sup>26</sup>**

According to the Transvaal Agricultural Union – South Africa (TAU), the primary purpose of the union is to organise its members in a united front for the benefit of commercial agriculture as a profession, to preserve its members' cultural way of life, and to establish and maintain a safe and prosperous environment in which its members can continue with commercial farming and make a positive contribution to the country.

<sup>26</sup> Most of the material for this section was obtained from <www.tlu.co.za>, and a submission made by the Transvaal Agricultural Union to the Committee on 20 June 2001.

A number of trade committees, organisations and unions specialising in agriculture, operate under the banner of the TAU.

According to the TAU its membership was around 6 000 to 7 000 in 2001. The TAU estimates there were approximately 40,000 commercial farmers in South Africa in 2001, excluding subsistence farmers, smallholders and farm managers who manage a farm for someone else. According to the TAU, if communal/subsistence farmers are included, there would be in the region of 150 000 – 200 000 ‘farmers’ in the country.

In respect of land reform the TAU favours a ‘willing buyer, willing seller’ process as the only fair, responsible and accountable way for the alienation of property. The TAU opposes any form of pressure on a property owner to force that person off his or her land.

The TAU bases its safety policy on the Biblical principle of self-protection. That is, everyone’s first responsibility is to protect their life, their family’s life, their property and to maintain peace. According to the TAU, this should be done within the framework of the South African constitution, in terms of which the State has an obligation to create an environment where everyone is safe from violence. The TAU supports the country’s security services in their goal to create a safe and stable environment.

The TAU is actively involved with rural safety and security issues and claims that it is, together with the Agricultural Employers’ Organisation (AEO), the driving force behind the organisation Action Stop Farm Attacks.

### **National African Farmers’ Union<sup>27</sup>**

The National African Farmers’ Union (NAFU) was established in 1991 for black farmers who had previously been excluded from mainstream agriculture. Before 1991 the only organisation which attempted to address the needs of black farmers at the national level was the National African Federated Chamber of Commerce and Industry (NAFCOC), which facilitated the formation of the NAFU.

According to the NAFU, it had 45,000 members in 1998. However, because the NAFU could not provide all the services which farmers need its membership had decreased to some 20,000 members by 2001.

The focus of the NAFU is on advocacy. On behalf of its members the NAFU lobbies for access to critical resources such as land, credit, information, credit extension and other support services. The NAFU assists its members to expand their capacity and strength through effective communication, training, improving management skills and exposing its members to the latest and up-to-date production techniques.

The broad aims of the NAFU are to:

- lobby for policy reforms aimed at levelling the playing field in all agricultural matters

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<sup>27</sup> Much of the material for this section was obtained from a submission made by the NAFU to the Committee on 23 July 2001.

- with particular reference to land acquisition, agricultural funding, and market access;
- lobby for the provision of appropriate services;
  - identify, quantify and address the needs of its members;
  - facilitate the provision of training; and
  - empower women and young people to enable them to participate fully in farming activities.

The NAFU claims to have members throughout South Africa who are structured in regional unions. The NAFU draws its members from a broad base, including farmers, agri-businesses (including companies, close corporations and trusts), farmers' organisations, corporations and individuals who support the NAFU's objectives and goals.

### **The Agricultural Employers' Organisation**

The Agricultural Employers' Organisation (AEO) was established in 1990. It is a non-profit organisation claiming to represent thousands of farmers countrywide. The AEO seeks to curb labour problems of agricultural employers. At the request of its members, the AEO's mandate includes giving attention to land affairs, and safety matters (the latter is done in conjunction with 'Action Stop Farm Attacks').

The mission of the AEO is to pro-actively enhance and protect the labour related interests of agricultural employers through training-, advice-, legal- and information services. According to the AEO it is a non-political organisation managed by a council of 11 members.

In May 2000 Action Stop Farm Attacks was established under the leadership of the AEO. The primary purpose of Action Stop Farm Attacks is to reduce and stop all farm attacks. At the time of writing the chairperson of the AEO is also the chairperson of Action Stop Farm Attacks.

According to Action Stop Farm Attacks, 'evidence strongly suggest that many farm attacks are a concerted effort to intimidate the farming community', which is why farm attackers 'do not merely intend killing their victims, but instead want to inflict pain, humiliation and suffering, especially on elderly people and women'.<sup>28</sup> A countrywide signature campaign launched by Action Stop Farm Attacks in May 2000, in protest against the high number of attacks on farmers, had collected 372,000 signatures within six months.<sup>29</sup>

### **CONCLUSIONS**

In general the farmers in South Africa are well organised. Although the agricultural unions

<sup>28</sup> No author, *Action: Stop farm attacks*, <http://www.tlu.co.za/AKSIE%20STOP%20PLAASAANVALLE.htm>, (2003-01-13).

<sup>29</sup> Human Rights Watch, *Unequal Protection. The State's Response to Violent Crime on South African Farms* (compiled by Manby B., New York, 2001) p 245.

cannot nearly claim to represent all the farmers in the country, they wield enormous power. They are also very influential opinion formers. Any project relating to farm and rural safety cannot hope to succeed without the cooperation of the agricultural societies. It is a pity that there are three agricultural unions – Agri SA, the Transvaal Agricultural Union of South African and the National African Farmers Union – since their differences impede the effectiveness of the Rural Safety Plan.<sup>30</sup>

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<sup>30</sup> See p 190.

## CHAPTER 12

### CRIME IN SOUTH AFRICA

#### INTRODUCTION

The phenomenon of farm attacks need to be analysed in the context of the crime situation en general. The underlying reasons for crime are diverse and many, and need to be taken into account when interpreting the causes of crime in South Africa. Notwithstanding the complexity of crime and its causes, it is worthwhile asking whether there is any correlation between general crime levels and the prevalence of farm attacks, that is, whether high general crime levels imply a high level of crime committed in the context of farm attacks, and vice versa. Should there be a correlation (or and inverse correlation) between general crime levels and the incidence of farm attacks, it may be possible to formulate useful hypotheses that warrant further investigation, for example, that the underlying motive behind farm attacks is, or is not, a criminal one.

To make such a comparison, reliable statistics are required. However, measuring crime, particularly over sustained periods, is fraught with difficulties. Recorded crime levels undercount the real levels of crime as they do not reflect unrecorded crimes. For crime to make it onto the official police records two things need to happen. First, victims or witnesses must report it to the police. Second, the police must record the crime in their records.

According to Statistics South Africa's 1997 national Victims of Crime Survey, crimes involving valuable and insured property are mostly reported. For example, 95% of vehicle thefts, 60% of vehicle hijackings and 59% of burglaries are reported. Less serious property crimes and interpersonal violent crimes are more often not reported than reported. Thus, only 41% of robberies, 38% of assaults and 28% of thefts of personal property are reported.<sup>1</sup> Furthermore, rape, which is a very serious crime, is notoriously underreported.

In South Africa the collection of statistics has been further complicated by the historic divide between large parts of the public and the police, and the different policing agencies existing in what is present day South Africa. The former South African Police (SAP) crime figures, for example, excluded crimes committed and reported in the erstwhile TBVC states and KwaZulu-Natal. This implies a substantial 'dark figure' of crime which was not collected by the SAP's statistical net before 1994.<sup>2</sup> While pre-1994 official crime statistics must be treated with caution, crime patterns for this period cannot be ignored if crime trends in the late 1990s are to be fully understood.

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<sup>1</sup> Statistics South Africa *Victims of Crime Survey 1998* (Pretoria, 1998)

<sup>2</sup> Schönreich M. 'Crime increase partly a statistical quirk' in *Fast Facts*, No. 3/99(South African Institute of Race Relations, Johannesburg, 1999) p. 2-3.

### CRIME PATTERNS: 1980 – 1993

Contrary to popular perception, levels of recorded crime did not suddenly increase after 1994. Crime – as recorded by the South African Police Service – increased fairly consistently after the mid-1980s, and especially in the early 1990s.

If one takes the long view, recorded crime *rates*, (i.e., recorded crime measured on a *per capita* basis), increased by about 35% in the twenty year period from 1974 to 1993. Crime remained more or less steady at around 4 000 incidents of recorded crime per 100 000 of the population between 1975 and 1982, but increased from 1983, rising dramatically in the early 1990s.<sup>3</sup> In the thirteen years covering South Africa's political transition between 1981 and 1993, the following trends of recorded crime can be identified (Table 31):<sup>4</sup>

- Murder increased almost uniformly between 1981 and 1987, rising sharply thereafter – especially in the late 1980s. Many of the murder statistics from the late 1980s onwards are a reflection of significant increases in political violence during this period.
- Rape experienced a fairly consistent upswing between 1984 and 1990, increasing significantly thereafter.
- Robbery (both robbery with aggravating circumstances and ‘common’ robbery) increased modestly in the early 1980s. Between 1984 and 1993, robbery levels increased at an escalating rate.
- Assault with intent to commit grievous bodily harm remained at an almost uniform level during the 1980s – with the exception of a brief decrease in 1986 – and then increased between 1990 and 1993.
- Housebreaking (residential and commercial) increased in the early 1980s, rising significantly in the mid-1980s. Between 1987 and 1990 housebreaking declined, increasing again between 1990 and 1993.

Table 31

Percentage change in the number of crimes recorded over four 4-year periods between 1981/82 and 1993						
	1981/82 1984/85	to	1984/85 1987	to	1987 – 1990	1990 – 1993
Murder	11%		9%		54%	30%
Rape	4%		13%		12%	33%
All robbery	2%		18%		32%	43%
Assault GBH	3%		-2%		3%	17%
Housebreaking	20%		41%		-5%	15%

### CRIME PATTERNS: 1994 – 2000

During the first four years after South Africa's political transition in 1994, overall crime levels almost stabilised, albeit at very high levels of especially violent crime. Between

<sup>3</sup> Glanz L. ‘The not so long arm of the law’ in *Indicator Crime and Conflict*, No. 5 (Durban, 1996) p 10.

<sup>4</sup> Sidiropoulos E. *et al*, *South Africa Survey 1997/98*, (South African Institute of Race Relations, Johannesburg, 1998) p 29-30.

1994 and 1997, recorded crime increased at an average of only 1% per year. Thereafter levels of recorded crime, measured from one year to the next, increased at an escalating rate. Overall crime levels increased by almost 5% between 1997-98, 7% in 1998-99, and 7.6% in 1999-2000.<sup>5</sup> (See Table 32)

The crime rate (as measured per 100 000 of the population), increased from 5 173 crimes in 1994, to 5 635 crimes in 2000.<sup>6</sup> At the 2000 level, the total risk of being a victim of crime per person per year is 5.6%, even before unrecorded crimes are considered.

Table 32

<b>Percentage change in the number of crimes recorded for two 4-year periods between 1994 and 2000</b>		
	1994 – 1997	1997 – 2000
Murder	-8%	-12%
Rape	23%	1%
Aggravated robbery	-18%	59%
Robbery (common)	63%	66%
Assault GBH	12%	17%
Housebreaking	7%	17%
20 most serious and prevalent crimes	3%	21%

The latest available crime statistics at the time of writing are those for the period April 2001 to March 2002. During this period 2.52 million crimes were recorded – and increase of 25% over the eight year period since 1994/95. While recorded crime has been increasing for some time, the rate of increase is slowing down. During 2001/02 recorded crime increase by only 0.9% - the lowest year increase since 1996/97.

Not all crimes increased at the same rate between 1994 and 2000. Overall, the 20 most serious and prevalent crimes increased by 24% during this period. Common robbery – that is, robbery without the use of a dangerous weapon – experienced the greatest increase of 169%. This might be partly attributable to an increase in muggings to rob people of their cell phones, given the significant increase in cell phone ownership in the late 1990s.<sup>7</sup>

Robbery with aggravating circumstances, serious assault and residential burglary all increased by over 30% between 1994 and 2000. The number of recorded murders and car thefts decreased. The decrease in murder levels can partly be attributed to the significant decline in politically motivated murders after 1994. It is significant that recorded murders have consistently declined since 1994. Murder is the most reliable crime type to measure, as virtually all murders are uncovered and recorded by the police. By contrast, the violent crimes of rape and assault are frequently not reported to the police, and official rape and assault statistics are an inaccurate reflection of the true extent of these crimes.

While murder levels declined after 1994, overall levels of violent crime have experienced the greatest increase compared to all other crime categories. Between 1994 and 2000, violent crime increased by 34%, property crime by 23%, violent crime against property

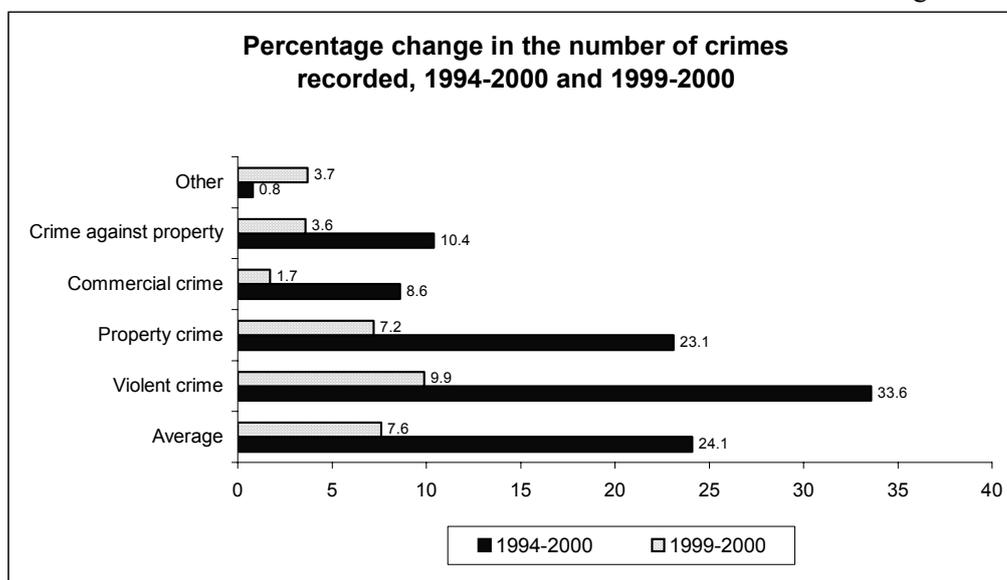
<sup>5</sup> Crime Information Analysis Centre *Provincial crime specific statistics for the period January to December 1994 to 2000*, (Pretoria, 2001)

<sup>6</sup> Media statement by the Minister for Safety and Security. Mr S.V. Tshwete, Cape Town, 2001-05-31.

<sup>7</sup> Media statement by the Minister for Safety and Security, Mr S.V. Tshwete, Pretoria, 2001-12-14.

(i.e., arson and malicious injury to property) by 10%, commercial crime by 9%, and drug and drunk driving related offences by 1%. When measured over the 1999 – 2000 period, the same trend emerges, with violent crime increasing at the greatest rate. (See Figure 4)

Figure 4



Recorded crime rates differ significantly between provinces. In 2000, the Western Cape had the highest provincial per capita rates of recorded murder, attempted murder, common assault, residential burglary, theft out of motor vehicles and general theft, and the second highest rates of rape, serious assault and commercial crime. Gauteng had the highest rates of robbery, theft of motor vehicles and commercial crime. By contrast the Northern Province had the lowest rates in 13 out of the 15 serious and prevalent crimes recorded by the police.<sup>8</sup>

Crime trends in South Africa's major cities have followed a similar pattern as those nationally since 1994.<sup>9</sup> A comparison of crime rates shows that Johannesburg has by far the highest incidence of serious crime – both violent and property – followed by Pretoria, Cape Town and Durban. (In this analysis Cape Town is covered by the statistics for the West Metropole police area.) The risk of becoming a victim of crime in 1999 was thus highest in Johannesburg and lowest in Durban according to the police statistics. In all four cities, the proportion of violent crime was similar, at around one quarter of all recorded crime. In Durban however, a slightly higher proportion of violent crime (29%) was recorded. (See Figure 5).

A comparison of how the risk of crime compares in the four cities clearly indicates that victimisation varies substantially from one part of the country to the next. This illustrates

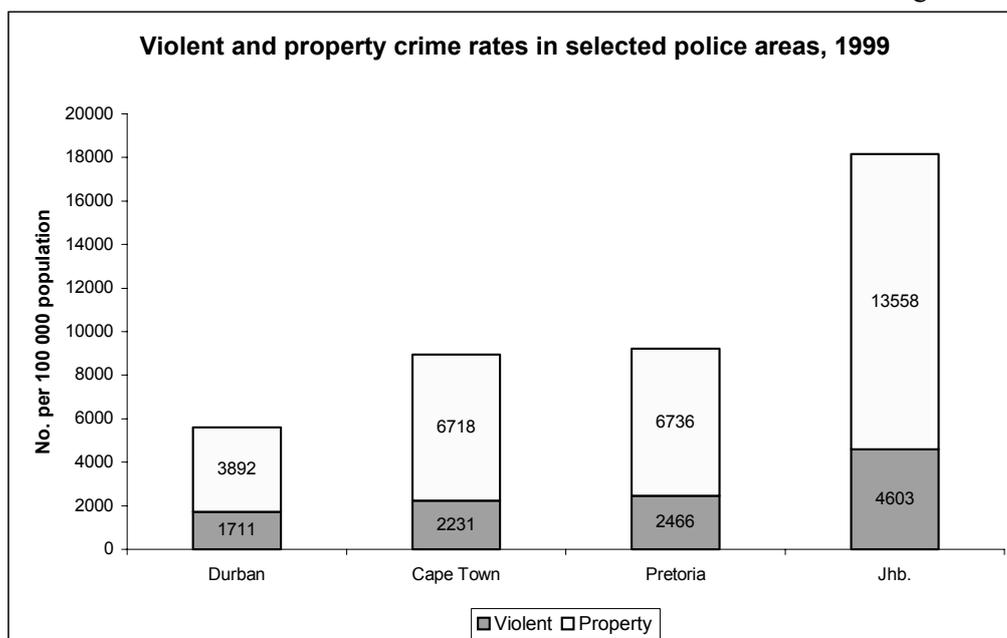
<sup>8</sup> *Specific crimes per 100 000 of the population for the provinces during the period January to December 2000, Crime Information Analysis Centre, Pretoria, 2001.*

<sup>9</sup> For a detailed analysis of city crime trends see A Louw, *City crime trends, Nedbank ISS Crime Index* (Institute for Security Studies, Pretoria, 2001) p. 7-15.

that all South Africans are not affected by crime to the same extent and that solutions to crime problems need to be based on local crime patterns.

In 1999 the murder rate was over three times higher in Johannesburg than in Pretoria. The murder rate in Johannesburg was 117 murders recorded per 100 000 people, compared to 82 in Durban, 68 in Cape Town and 37 in Pretoria.

Figure 5



An analysis of how the risk of murder varies within the suburbs of Johannesburg, Cape Town and Pretoria shows that people living in the poorer parts of the city, including the townships, were much more at risk of murder than those in the wealthier areas in 1999. The murder rate was also comparatively higher in inner city areas (Cape Town central, Johannesburg central and Pretoria central) than in the residential suburbs, although the comparison may not be completely valid because of the few permanent residents in the city centres.

The risk of residential burglary was higher for people living in Johannesburg in 1999 than any of the other three cities. In contrast to the murder trend, Pretoria was in second place after Johannesburg as the city with the highest rate of burglary. That is, in 1999 there were 1 903 recorded burglaries per 100 000 of the population in Johannesburg, followed by Pretoria (1 261), Cape Town (1 104) and Durban (643).

The risk of car hijackings was significantly greater in Johannesburg (272 per 100 000 of the population) than in Durban (65), Pretoria (47) and especially Cape Town (21). People in Johannesburg were about 13 times as likely as those in Cape Town to be the victim of a car hijacking in 1999.

In three of the four cities, crime levels increased more than the total for all crime recorded in South Africa between 1994 and 1999. All serious crime increased the most in Pretoria (by 19%) and in Durban (by 19%) during this period. Crime in Cape Town increased by 17%. This means that although the risk of crime is fairly low in the Mother City, the risk of

becoming a victim has increased almost as fast in Cape Town as in Durban and Pretoria. Johannesburg was the notable exception with regard to how crime levels have changed between 1994 and 1999. In the city, recorded crime decreased marginally (by 2%) during this period. The decrease in crime in Johannesburg can largely be attributed to a drop in property crime in the city. Indeed levels of violent crime increased by 17% between 1994 and 1999 in Johannesburg.

Of the four cities covered in this analysis, violent crimes increased at a faster rate than the national total over this period in Pretoria only, viz. 30%. In Durban and Cape Town property crime increased slightly more than violent crime between 1994 and 1999. In Pretoria and Johannesburg the opposite was true.

## SA CRIME IN AN INTERNATIONAL CONTEXT

### Difficulty of comparing crime across borders

Comparing crime rates between countries is fraught with difficulties.<sup>10</sup> This is so for a number of reasons:

- Countries have different legal and criminal justice systems. Crime definitions vary from one country to the next. For example, a serious assault in one country could be recorded as an attempted murder somewhere else. Moreover, what constitutes a recordable crime in one country might not be a criminal offence in another.
- The likelihood of victims reporting crime, and the police recording them, is not the same in every country. Crime victims are less likely to report crime in a country with an oppressive or incompetent police force than in a country where the police is helpful and trustworthy. The distances people have to travel to the nearest police station, and the availability of transport to get there, is another factor which can affect reporting rates.
- Multiple offences are not recorded uniformly in all countries. In some countries only the most serious offence reported in a single incidence is recorded, while in others all offences reported are recorded.
- Differences in data quality between countries is also a factor. In developed countries recorded crimes are entered in a computerised database and channelled to a central point for analysis. In many less developed countries crime statistics are recorded on paper which can easily result in the loss of some of the statistics.

### High violent crime

By global standards South Africa has high levels of violent crime.<sup>11</sup> Every third crime recorded in South Africa is violent in nature (i.e., involving violence or the threat of violence). In the United States, considered to be a relatively violent society, violent crime makes up 15% of all recorded crime, while in the United Kingdom only 6% does so.

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<sup>10</sup> Masuku S. 'South Africa: World crime capital?' in *Nedbank ISS Crime Index* (Institute for Security Studies, Pretoria, 2001) p. 16-17.

<sup>11</sup> *Ibid* p 16-21.

Comparing South Africa's crime figures – or that of any other country in Sub-Saharan Africa – with those of developed countries is an unfair comparison. Socio-economic conditions, levels of inequality, unemployment levels and the State's ability to help those in need, tend to be more favourable in the developed industrialised states concentrated in the northern hemisphere. Moreover, developed states have the capacity to pay for well-resourced criminal justice systems, and to increase spending as and when upsurges in crime occur.

Murder is the most suitable crime to compare between countries. There are few definitional disputes about what constitutes a murder and most murders are recorded because the evidence of the crime, in the form of the body of the victim, is rarely concealed permanently. Reliable crime data on African countries is sketchy.

Nevertheless, a comparison of murder rates shows that South Africa has by far the highest rate in the region. In 1998, the number of murders recorded per 100 000 of the population was 59 in South Africa, 45 in Namibia, 18 in Swaziland and only 9 in Zimbabwe. Moreover, murder rates per 100 000 of the population in 1998 were 21 in Brazil, 20 in the Russian Federation, 4 in Hungary and 3 in Spain.<sup>12</sup>

## REASONS FOR HIGH CRIME RATES

There is no one satisfactory explanation for South Africa's high levels of crime – especially the high and increasing levels of violent crime. There are, however, a number of explanations which help to explain South Africa's consistently high levels of crime.

### Violent past

A multitude of apartheid and Draconian internal security laws were placed on the South African statute books between the mid-1950s and late-1980s. Behaviour which is considered normal in a free society was criminalised.

As the legitimacy of the South African Government at the time declined, and opposition to its policies intensified, the distinction between political and criminal behaviour became blurred. Apartheid offences were classified as crimes. The State's security forces committed crimes, and showed disdain for the rule of law, in their zeal to clamp down on the Government's political opponents. And those engaged in 'the struggle', particularly from the mid-1980s onwards, justified forms of violence as legitimate weapons against the system. Actions which were violent crimes were often seen and justified by their perpetrators as a legitimate defence against political opponents and enemies. The result was a society in which the use of violence to achieve political and personal aims became widespread.<sup>13</sup>

### Period of transition

<sup>12</sup> *International crime statistics 1998*, International Criminal Police Organisation (Interpol), Lyon, 1998.

<sup>13</sup> Shaw M. *Partners in crime? Crime, political transition and changing forms of policing control* (Centre for Policy Studies, Johannesburg, 1995) p. 9.

As pointed out above, there is a link between South Africa's political transition over the last decade and the growth in the crime rate. Increases in crime in South Africa over the last ten years are consistent with the experiences of other countries undergoing transitions to democracy, which are followed by attempts to consolidate the new democratic institutions. As change and democratisation processes proceed, society and its instruments of social control (both formal and informal) are reshaped. The result is that new areas for the development of crime open up.<sup>14</sup>

The South African transition brought about a restructuring of the criminal justice system, and the abolition of a number of laws and the promulgation of new ones. As a result many criminal justice functions have been operationally weakened. Moreover, the experienced personnel working in the system, who were trained in the policing methods of the old authoritarian order, are now unsure how to function effectively within a new legal framework based on the rule of law and a constitutionally entrenched Bill of Rights.

### **Cycle of violence**

Some explanations for the high rate of violent crime refer to South Africa's political history, suggesting that families suffered from 'institutional violence' for decades through the disruption of their lives by mass removals and migrant labour policies of apartheid. Political violence compounded this disruption of family life. The resultant weakening of the family unit and thus parental control over children may prompt criminal behaviour among the youth.

Moreover, while the liberation movements' strategy of ungovernability was theoretically directed against the apartheid state, it had other destructive effects. In the process of destabilising black local government, leading violent campaigns against black policemen, and urging a people's war which involved the youth in particular, massive violence was unleashed in black communities which bred a culture of violent lawlessness and a distrust of authority.<sup>15</sup> Since 1994, little has been done to reverse these tendencies and to draw young (especially black) South Africans into a society governed by the rule of law.

'Culture of violence' theories similarly argue that the effects of apartheid, coupled with years of political violence and the continued exposure to violence in the home and in the neighbourhood, have produced a destructive culture which manifests itself in what the Nedcor Project on Crime, Violence and Investment calls 'murderous intolerance'.<sup>16</sup> It also means that South Africans quickly resort to violence as a means of solving conflicts – whether in the domestic, social or work environment.

### **Proliferation of firearms**

South Africa is a heavily armed society. According to the police's Central Firearms Registry three-and-a-half million South Africans legally possess some 4.2 million firearms,

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<sup>14</sup> Shaw M. *South Africa: Crime in transition* (Institute for Security Studies, March 1997) p. 1.

<sup>15</sup> See Kane-Berman J. *Political Violence in South Africa*, (South African Institute of Race Relations, Johannesburg, 1993)

<sup>16</sup> *Nedcor Project on Crime, Violence and Investment: 1996* (Johannesburg, 1996).

of which slightly more than half are handguns. It is estimated that a similar amount of illegal firearms are circulating in South Africa.

South Africa's porous borders – especially with Mozambique – allow arms smugglers to bring large quantities of firearms (especially AK47s), remnants of Mozambique's long civil war, into South Africa.<sup>17</sup> Because of an over-supply of such weapons and the impoverished state of Mozambique these guns sell cheaply (for example, R500 for an AK47), making them accessible to small-time South African criminals and juveniles. Because of the long history of armed conflict many South Africa are familiar with firearms and know how to use them.

### **Organised crime**

It is likely that organised crime syndicates are behind a significant number of car hijackings, vehicle thefts, armed robberies (especially cash-in-transit and bank robberies), burglaries of homes in upper-class areas and businesses, commercial crimes and even certain types of shoplifting.

While no accurate figures exist, it is likely that organised crime has grown considerably in South Africa since 1994. Organised crime tends to grow rapidly during periods of political transition, when levels of violence are high, leading to state resources being concentrated in certain areas only and gaps emerging in which organised criminal groups may operate.<sup>18</sup> Moreover, inadequate border controls, a good transport infrastructure, markets for and sources of contraband, such as endangered species products and cannabis (dagga), a good banking system, and a ready supply of trained recruits would have contributed to the growth of organised crime in South Africa.<sup>19</sup>

### **Youthful population**

The relationship between age and crime has been the subject of considerable criminological analysis. It has been suggested that 'probably the most important single fact about crime is that it is committed mainly by teenagers and young adults'.<sup>20</sup> According to a National Institute for Justice paper on violent crime by young people, '(a)ge is so fundamental to crime rates that its relationship to offending is usually designated as the "age-crime curve". This curve, which for individuals typically peaks in the late teen years, highlights the tendency for crime to be committed during the offender's younger years and to decline as age advances.'<sup>21</sup>

<sup>17</sup> Hennop E. 'South Africa's porous borders: A haven for arms smugglers' in *Nedbank ISS Crime Index*, (Institute for Security Studies, Pretoria, 2000) p 20 – 23.

<sup>18</sup> Shaw M. *Organised crime in post-apartheid South Africa* (Institute for Security Studies, Midrand, 1998) p 1.

<sup>19</sup> CIMC *The incidence of serious crime between 1 January and 31 December 1997* (Quarterly Report No 1/98, Crime Information Management Centre, 1998) p 25.

<sup>20</sup> Smith D.J. 'Youth Crime and Conduct Disorders' in Rutter M. and Smith D.J. (ed's), *Psychological Disorders in Young People: Time Trends and their Correlates* (Chichester, Wiley, 1995) p 395.

<sup>21</sup> Blumstein A. 'Violence by Young People: Why the Deadly Nexus?' in *National Institute for Justice Journal*, No 229, August 1995, p 3.

According to a 1995 British Home Office report at least one-quarter of all recorded crime committed in England and Wales is committed by 10 to 17 year olds, and over two-fifths is committed by those under 21.<sup>22</sup> Overall for all crimes the peak age of offending for males in England and Wales is 18. For property offences it is 14 years, for violent offences 16 years, and for drug offences 20 years.<sup>23</sup>

In the United States the situation is similar. Persons most likely to commit murder in the US are aged between 18 and 24. A person in this age group is almost three times as likely to commit a murder than a person in the 25 to 34 age group, and more than six times as likely than a person aged 35 to 49.<sup>24</sup>

No national figures are available on the number of crimes committed by young people in South Africa. Conviction figures, however, show that young males are considerably more at risk of being convicted for a wide range of crimes than older males, or females of any age group.<sup>25</sup> During 1995/96 (the latest period for which figures are available from Statistics South Africa), 2 283 out of every 100 000 males aged 18 to 20 were convicted of committing a crime. For males under 18 the corresponding ration was 318 per 100 000, and for males aged 21 and over it was 1 481 per 100 000.<sup>26</sup> For serious violent crimes the per capita conviction rate for males aged 18 to 20 is considerably higher, compared to that of men of older age groups. For example, during 1995/96 males aged 18 to 20 were more than three times as likely of being convicted of robbery, than males aged over 20.

The higher than average propensity of juveniles and young adults to engage in criminal activity would seem to be similar in South Africa as it is in the rest of the world. However, in comparison to many other countries - especially developed countries - South Africa has a relatively youthful population. According to the last census results (1996), a third of the South African population was under the age of 15, and 44% under the age of 20 years. The numerically largest population segments were those aged 5 to 9 years and 10 to 14 years, each of which made up 11.5% of the total population in 1996.<sup>27</sup>

### **Rapid urbanisation<sup>28</sup>**

<sup>22</sup> *Information on the Criminal Justice System in England and Wales* (Home Office Research and Statistics Department, London, 1995).

<sup>23</sup> Newburn T. 'Youth, Crime, and Justice' in Maguire M., Morgan R., and Reiner R. (ed's), *The Oxford Handbook of Criminology* (Clarendon Press, Oxford, 1997) p 627.

<sup>24</sup> FBI *Supplementary homicide reports, 1976-97*, <<http://www.ojp.usdoj.gov/bjs/homicide/oage.txt>> (3 May 1999).

<sup>25</sup> Conviction figures do not necessarily reflect the exact level of criminality of a specific age group – they should be seen as indicating a pattern only. This is because on the one hand young males might be more likely to be convicted than older males. (The latter are more likely to be recidivist and might exploit the criminal justice system's weaknesses better, resulting in a greater number of acquittals. Younger accused are also more likely to plead guilty as they are less likely to receive a heavy sentence because of their youthfulness and the likelihood that they are first offenders.) On the other hand, young accused are less likely to be convicted (especially in respect of less serious offences) because of a variety of diversion programmes which remove young accused, who admit guilt, from the criminal justice system process.

<sup>26</sup> Central Statistical Service *Crimes: Prosecutions and convictions with regard to certain offences, 1995/96* (Pretoria, 1998). See also M Schönteich, The dangers of youth? Linking offenders, victims and age, *ISS Nedcor Crime Index* (Institute for Security Studies, Midrand, 1999) p. 22-28.

<sup>27</sup> Statistics South Africa *The People of South Africa Population Census, 1996, Census in Brief* (Pretoria, 1996).

<sup>28</sup> Most of the material contained in the sub-section on 'rapid urbanisation' has been taken from Glanz L 'South African cities under siege' in *Indicator Crime and Conflict*, No. 2, Winter 1995, Durban, p. 17.

It is a world-wide phenomenon that crime rates are higher in cities than in rural areas, with the rate generally increasing according to city size. Most factors associated with high crime rates characterise cities to a greater extent than small towns. Population density, for example, is thought to be associated with crime, in that greater concentrations of people lead to competition for limited resources, greater stress and increased conflict.

Factors which characterise urbanisation, such as overcrowding, unemployment and increased consumer demands and expectations are themselves believed to be associated with high crime rates. High levels of gang activity and the availability of firearms are also mainly evident in urban areas and are known to be related to criminal activity.

Cities also have higher levels of anonymity, which means a criminal's chance of recognition is slight. The offender is also surrounded by strangers who are less eager to censure misconduct and to intervene when a crime is in progress.

Many theorists contend that the abundance of visible wealth in cities, in the form of large quantities of consumer goods, is not in itself conducive to crime. It is the relative deprivation (i.e. the difference between the 'haves' and the 'have nots') in urban areas that fosters crime. Inequalities in wealth are considerable greater in urban than in rural areas.

With the abolition of influx control in the mid-1980s urbanisation rates increased in South Africa – especially in the country's larger metropolitan areas to which a large number of people were drawn in the search for employment. South Africa is the third most urbanised country in sub-Saharan Africa: 56% of the country's population is urbanised (up from 46% in 1960 and 52% in 1995).

### **Weak criminal justice system**

South Africa's criminal justice system is not performing optimally. In 2000, some 2.6 million crimes were recorded by the police. Of these approximately 610 000 (24%) went to court, and the prosecution service took 271 000 (11%) cases to trial. These resulted in slightly more than 211 000 (8%) convictions, the other cases being withdrawn or settled otherwise.

The poor performance of a criminal justice system should not be interpreted as a cause of crime. The primary aim of the criminal justice system is not to reduce crime but to process cases and offenders speedily and effectively and to hand down appropriate sentences (punishment) to those convicted of an offence. Nevertheless, how well the system functions is important for several reasons:

- A relatively small proportion of people are believed to commit the majority of serious crimes, and especially organised crime. If these perpetrators are apprehended and convicted timeously and effectively, certain crimes can be reduced.
- A functional system helps to deter some potential offenders from committing a crime.
- Criminal justice successes – especially if well publicised – are essential for boosting public confidence in the Government's ability to reduce crime and make people feel safer.

## CRIMINAL VIOLENCE AND RURAL SAFETY IN KWAZULU-NATAL

### Historical background

Like the rest of South Africa, KwaZulu-Natal experiences high levels of criminal violence, and it shares the same broad context within which crime in general, and threats to rural safety in particular, should be placed. However, there are also long-standing political dynamics in certain areas of the province, which have added a new dimension to violent crime, and which continue to impact on the safety of rural residents, including farmers, up to the present time. It would be impossible to understand the nature of farm attacks, including land invasions, in KwaZulu-Natal without having regard to these dynamics.

These dynamics are rooted in the history of the province and especially in its status as a British colony. The KwaZulu homeland, consisting in the mid 1980s of 42 pieces of land, was the most geographically fragmented of the homelands, its composition directly linked to the situation of 'reserves' for blacks established by the British Government in the 19<sup>th</sup> century.<sup>29</sup> There were also a large number of 'black spots', i.e. pieces of freehold land purchased before the implementation of the 1913 Land Act.<sup>30</sup> As a consequence, the areas in which white farmers share their borders with black rural communities are more numerous than in other parts of the Republic. Population density in KwaZulu was also extremely high, exceeded only by that of Qwa Qwa.<sup>31</sup>

Tensions which may arise from the contiguity of commercial farmland with impoverished, overcrowded areas are not a new, post-1994 phenomenon. An example is the Muden-Weenen area, in the old Natal, which borders on Msinga, in the then KwaZulu.<sup>32</sup> Before the late 1970s, no white farmers had lived on the Natal border side, and Msinga residents had grazed and watered their cattle on both sides of the boundary as they had for generations. Together with the white farmers came new fences, and the friction started as Msinga residents found themselves cut off from traditional footpaths and sources of water, and had to travel out of their way to reach the town of Weenen. Among the problems farmers were experiencing by the 1980s were 'pilfering, illegal wood-cutting, stock theft, trespassing and veld-burning'.<sup>33</sup>

Historical processes rooted in the British colonial status of Natal (which, after the Anglo-Zulu war of 1879 incorporated 'Zululand' north of the Tugela River) have also impacted in distinct ways on relationships between English and Afrikaans-speaking, and black and white, residents of the province. There is, for example, a long history of English-speakers, representing powerful vested economic interests, who wanted a different political dispensation for themselves<sup>34</sup> and epitomized by the epithet 'the last outpost of the British Empire'.

<sup>29</sup> Robbins D. and Hartley W. *Inside the Last Outpost* (Shuter & Shooter, Pietermaritzburg, 1985) p117

<sup>30</sup> Despite large numbers of people removed for 'consolidation' purposes there were still 189 of these 'black spots' in the mid 1980s – see Platzky L and C Walker *The Surplus People: Forced Removals in South Africa* (1985) p 53

<sup>31</sup> Platzky and Walker *op cit* p 17.

<sup>32</sup> Robbins and Hartley *op cit* p 107-109

<sup>33</sup> *Ibid.*

<sup>34</sup> De Haas M. and Zulu P. 'Ethnicity and Federalism: The Case of KwaZulu/Natal' in *Journal of Southern African Studies*, 1994, Vol 20 No 3, p 433

Whilst the English-Afrikaner political divide was to assume increasingly less salience during the latter part of the 20<sup>th</sup> century, the supposed ‘uniqueness’ of the province re-emerged after the establishment of KwaZulu. Firstly, the Buthelezi Commission, which drew together business interests, academics and politicians, recommended, among other things, some form of ‘consociational’ government for the region.<sup>35</sup> A few years later, in 1986, the KwaNatal Indaba, supported by Inkatha (as the Inkatha Freedom Party was then called), the opposition Progressive Federal Party and a variety of politically ‘centrist’ groupings<sup>36</sup> and business interests in the province, also argued for a ‘special’ regional political dispensation for the province.<sup>37</sup> Together with its political allies the IFP continued, both before and after the 1994 elections, to secure a ‘special’ status for the province, culminating in the rejection by the Constitutional Court, in 1996, of its Constitution for the province, which one judge commented, appeared ‘intended to legitimise armed secession’.<sup>38</sup>

Whilst the KwaZulu Government and the IFP remained, on the surface, implacably opposed to the National Party Government’s policy, its officials collaborated closely with police and army personnel when violence flared in the region in the 1980s. Some members were even part of Joint Management Committee structures<sup>39</sup> and the homeland’s Chief Minister, Gatsha Buthelezi, was also Minister of Police. Inkatha was therefore in the position of having support from both the nationalist Government (covertly) and the ‘liberal’ English speaking opposition (overtly) in its ‘war’ with members of the UDF in the 1980s and, after the momentous changes of February 1990, with members of the unbanned liberation movements, especially the ANC. This support for Inkatha, for different reasons, by both English and Afrikaans-speaking whites in the province, was largely a product of perceptions that Buthelezi was a ‘moderate’ political leader, who led a ‘peaceful’ organisation which supported ‘free enterprise’, as opposed to the perceived ‘radical’ and ‘communistic’ ANC and its allies.<sup>40</sup>

### The development of a culture of violence

The political violence, simplistically and erroneously cast as ‘black on black’, structurally was a struggle between pro- and anti-liberation forces. The liberation movements and their internal allies represented the ‘Total Onslaught’ against whom the State and its homeland allies engaged in a ‘Total Strategy’. However, there is also little doubt that a number of people within the liberation movements themselves collaborated with the security arm of the *apartheid* State. Research carried out at the time suggested that criminals were well

<sup>35</sup> Randall P. (ed) *Survey of Race Relations in South Africa 1982* (South African Institute of Race Relations Johannesburg 1983) p 399

<sup>36</sup> Groupings to both the left (e.g. the United Democratic Front, representing the banned ANC) and the right (e.g. Conservative Party) did not participate; nor did the Nationalist Party, which did send an observer

<sup>37</sup> Cooper C. et al *Race Relations Survey 1986 Part 1* (South African Institute of Race Relations, Johannesburg 1987) p100-104

<sup>38</sup> De Haas M. ‘Violence’ in Louw R et al (eds) *South African Human Rights Yearbook 1996 Vol 7* (Centre for Socio-legal Studies, Durban, 1998) p 275

<sup>39</sup> De Haas M. ‘The Ghosts of Trust Feed’ *Indicator* Vol 9 No 3 Winter 1992 pp65-68

<sup>40</sup> Regarding the connections between Inkatha and business interests in the 1980s see, for example, chapter 6 of Mare G. and Hamilton G. *An Appetite for Power* (Ravan Press, Johannesburg, 1987)

represented in the ranks of perpetrators of political violence, on both sides of the political divide, and also in vigilante groupings.<sup>41</sup>

The violent political struggles in KwaZulu-Natal in the 1980s spawned a phenomenon termed 'warlordism', in which powerful men controlled territories and personnel through a combination of force and patronage.<sup>42</sup> Most, but by no means all, of these warlords were aligned to Inkatha and some chiefs (now referred to as 'traditional leaders'). According to the Truth and Reconciliation Commission, 'in the kwaZulu-Natal context, a warlord is a powerful local leader who gets and keeps political power in an area by paramilitary or military force'.<sup>43</sup> The TRC report continues that the political power-wielders to whom the warlords gave at least nominal allegiance, were not only Inkatha but also, 'in a sense, the police, who represented the central Government and demonstrated its tolerance of such unofficial local or district "government"'.<sup>44</sup> The TRC also found that the late Harry Gwala of the ANC had functioned as a 'self-styled warlord'.<sup>45</sup> This conflict engendered death, injuries, destruction of property, displacement of tens of thousands, disruption of family life, and permanently traumatised children, and it also entrenched a culture of violence in the province.

During the 1980s the major focus of political violence was urban, but it spread to increasing numbers of rural areas in the early 1990s. This violence initially does not seem to have jeopardized the safety of farmers<sup>46</sup>, with one reported exception. In 1991, as the Richmond 'war'<sup>47</sup> escalated, one Mr Osborne was murdered on his farm at Richmond. Nothing was stolen, and a political motive for his killing may be found in the fact that the murdered man was a supporter of the Nkabinde family. Sifiso Nkabinde, dubbed a 'warlord' by the TRC,<sup>48</sup> was the leader of the ANC in Richmond. White farmers in the Richmond area 'increasingly found themselves caught in the crossfire'. A number of farmers living in an isolated area some fifteen kilometers from Richmond were living under virtual 'siege' conditions and they and their families were going about fully armed.<sup>49</sup>

Complicating relationships between warring parties and farmers, however, were persistent allegations that the Afrikaner Weerstandsbeweging (the AWB – a rightwing Afrikaner resistance movement) was running a training camp for foot soldiers in the violence on a farm in another Richmond area.<sup>50</sup> Allegations of white farmers supporting combatants in the violence were not confined to Richmond. In Appelsbosch, in the Maphumulo magisterial district, an attempt to launch an ANC branch in the area in November 1991 was

<sup>41</sup> Haysom N. *Mabangalala: the rise of right-wing vigilantes in South Africa* (Centre for Applied Legal Studies, University of Witwatersrand Johannesburg, 1986); Minnaar A. (ed) *Patterns of Violence : Case Studies of Conflict in Natal* (Human Sciences Research Council, Pretoria, 1992) Chapters 5,6 & 7; The Truth and Reconciliation Commission *Interim Report*, Vol 1, notes p 312.

<sup>42</sup> Minnaar A. 'Undisputed Kings': Warlordism in Natal, in Minnaar A (ed) *Patterns of Violence ; Case Studies of Conflict in Natal* (1992)

<sup>43</sup> Truth and Reconciliation Commission *Interim report* Vol 3, p 214

<sup>44</sup> *ibid*

<sup>45</sup> Two key warlords mentioned by Minnaar, also feature in the same TRC report

<sup>46</sup> While the TRC heard evidence about a political campaign against farmers during the struggle for liberation, the PAC, which is the main organisation linked to this campaign, had very little support in the province

<sup>47</sup> Osborne H. 'Richmond : The war continues' in Minnaar A. (ed) *Patterns of Violence : Case Studies of Conflict in Natal* (1992) p188

<sup>48</sup> Truth and Reconciliation Commission *Interim Report* Vol 3, p 215.

<sup>49</sup> Osborne H *op cit* p 199

<sup>50</sup> Osborne H *op cit* p 187-188

thwarted by the arrival of lorry loads of armed Inkatha supporters. Their transport 'was believed to have been provided by sympathetic white farmers in the area, and allegations were made about shooting ranges on white farms'.<sup>51</sup>

### Post-1994 violence

Relationships between political parties and individuals identifying with them, on the one hand, and members of the police, army and intelligence communities, on the other, which had been forged during the 1980s and early 1990s, continued to impact upon the situation in the province after the first democratic elections. Whilst the same type of overt collaboration, for example, between some police and warlords, noticeable in the 1980s and early 1990s, became less evident, it has not disappeared. In 1995, for example, when Captain Mandla Vilakazi (a former member of the Goldstone Investigative Team who headed a small team investigating dozens of murders in Mandini) arrested IFP supporters, who were subsequently convicted in the High Court for a number of murders, attempts were made by both politicians and senior police members to stop his work.<sup>52</sup>

For the first two years after the elections political violence continued, culminating in the massacre of 19 people at Shobashobane on 25 December 1995<sup>53</sup>. Whilst overtly, high profile political violence died down somewhat from 1996, it was to re-emerge in Richmond in 1997 and 1998. This violence was linked to the expulsion from the ANC of Sifiso Nkabinde, referred to above, following allegations that he was a police informer of long standing.<sup>54</sup> He then shifted his allegiance to the newly formed United Democratic Movement. Nkabinde met an untimely death, and although some of the foot soldiers involved in the violence were subsequently convicted, the forces behind it remained unexposed.

Although one Member of Parliament and one member of the Provincial Government have been killed during the past five years, high profile political killings have been largely replaced by less obvious 'political' violence, such as the targeting of local political figures, often in rural areas where their deaths receive no coverage. Despite the existence of a working relationship between politicians at a leadership, political tolerance does not necessarily exist at a ground level. A lack of true freedom of political association is particularly noticeable in rural areas, where traditional leaders – a number of whom have 'warlord' backgrounds – rule with an iron fist and make their intolerance of political opposition known in various ways. As seen from the interviews conducted by the Committee in especially Mangete and Nqabeni, many farmers believe that some of these traditional leaders are instrumental in orchestrating illegal land invasions. In the case of Mangete, the chief of the neighbouring area is named in a court action which legal

<sup>51</sup> De Haas M 'From tranquility to terror: Appelsbosch 1990-1992' in Minnaar A (ed) *Patterns of Violence: Case Studies of Conflict in Natal* (1992) p 207

<sup>52</sup> De Haas M. *The more things change...policing in the 'new' South Africa* (Mimeo, 1999) One of the senior police members interfering in Vilakazi's work had been in charge of the North Coast Security Police at the height of the political violence in the early 1990s.

<sup>53</sup> A Commission of Enquiry established in 1996 heard a great deal of evidence that the police had been warned of an impending attack but had failed to take appropriate action. The report has still not been publicly released.

<sup>54</sup> This was confirmed by the Truth and Reconciliation Commission in its Interim Report, Vol 3, p 215. Even before the killings started again in Richmond, members of the SAPS at Richmond wrote to the Area Commissioner, complaining of collusion between Nkabinde and certain senior police members.

residents brought to try and secure an interdict against land invaders – which action was suspended pending the lodging, by the chief concerned, of a purported ‘tribal’ claim for land restitution.<sup>55</sup>

Allegations were also made to the Committee by farmers whose land had been invaded that the traditional leaders concerned were making money out of the invasions by collecting ‘rent’ from people, to whom they had ‘allocated’ land which did not belong to them. Since traditional leadership is highly politicised in KwaZuluNatal, there may also be important political gains for leaders and the parties to which they have allegiance (some to the extent of serving as political office-bearers). Increasing the size of their constituencies may assist them to expand their own personal sphere of influence, while swaying voters in favour of their party, through tactics varying from dispensing patronage to their subjects to coercion.

Many of the killings in rural areas go virtually unnoticed and, when they do attract attention, they may be dismissed by the police as ‘faction fighting’.<sup>56</sup> In fact, it has become entangled with issues varying from to political conflict to boundary disputes and from taxi-violence to stock theft.<sup>57</sup>

This continuing culture of violence impacts upon the farmers. Firstly, in conflict-ridden rural communities where true freedom of political activity does not exist, farmers may still be perceived (rightly or wrongly) as politically aligned rather than neutral by-standers. Secondly, political foot soldiers serving a rural warlord, for example, may rob, rape and kill for purely criminal gains, since they are armed, and make a living out of violence.

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<sup>55</sup> Although the matter is still pending in the Land Claims Court, the court has already ruled that there is no basis for a ‘tribal’ claim

<sup>56</sup> Faction fighting, however, in the past used to be essentially family or clan-based feuds, in which men (not women and children) were singled out in acts of retribution.

<sup>57</sup> For further information on the patterns of violence, see <[www.violencemonitor.com](http://www.violencemonitor.com)>.

## CHAPTER 13

### THE CRIMINAL JUSTICE SYSTEM AND THE PROTECTION OF FARMERS

#### INTRODUCTION

It is impossible to evaluate the protection that the farming community receive from the criminal justice system without looking at the efficacy of the criminal justice system as a whole. South Africa's criminal justice system is not performing optimally. Overall fewer than half of all recorded crimes are detected, and on average fewer than one out of ten cases recorded by the police result in the conviction of the perpetrators. In respect of serious farm attack cases, however, the detection rate appears to be higher.

Once criminal cases are successfully processed through most of the criminal justice system, with the suspects ending up in the accused box in court, their chances of being convicted are high. There is persuasive anecdotal evidence to conclude that the success rate for the prosecution of farm attack cases is significantly above the average. It supports the claims made by the police service that farm attack investigations are usually undertaken by senior and experienced detectives, and are then allocated to experienced regional court prosecutors or state advocates in the high court.

An important reason for the low detection rate in South Africa is that, compared to the mid-1990s, there were fewer functional police officers dealing with higher levels of crime at the end of 2002. Detectives are overloaded with cases with the result that many cases are not dealt with expeditiously. Police officers in the country's rural areas are thinly spread and many rural communities do not see a uniformed police officer for weeks and even months at a time. This is being addressed, however, through the recruitment of an additional 30,000 entry-level police constables by early 2006.

In late 1997 the Rural Protection Plan was launched. The object of the Plan is to encourage all role players in rural safety to work together in a coordinated manner, and engage in joint planning, action and monitoring to combat crime in the country's rural areas. During the four years after the launch of the Plan the number of recorded farm and smallholding attacks increased (albeit primarily in respect of attacks on smallholdings). The number of recorded murders associated with farm attacks initially declined after the launch of the Plan, and stabilised in 2000 and 2001. The Plan's success appears to vary from one geographic area to the next.

A key component of the Rural Protection Plan – the commandos – are to be phased out by the end of the decade. The police service intends launching two initiatives in respect of rural safety which are intended to replace the commandos: Area Crime Combating Units and Sector Policing.

The proposed sector policing strategy may be able to overcome some of the police's problems in respect of policing rural communities. With dedicated police officers or police reservists for geographically defined areas, and greater community interaction with sector police personnel, the police will be in a better position to collect crime intelligence and encourage public cooperation in the detection of crime. However, given the size,

geographic isolation and dispersion of many rural areas, a policing strategy based on a consistent visible police presence in the form of sector police personnel will be very difficult to sustain to the point where it succeeds in curbing crime.

Thus, if policing in the deep rural areas, for practical reasons, is primarily reactive in nature, then the proactive functions of the SAPS should be structured in the form of support to upgrade the detective and investigative capacities of the rural police stations and the specialised units that operate in the vicinity. Proactive functions at these police stations should focus on enhancing information and intelligence gathering to support the detective functions and guide the operational deployment of station personnel and specialised units. This is crucial as one of the police service's most glaring weaknesses – especially in respect of rural safety and farm attacks – is in its intelligence and detection capabilities. Too few farm and smallholding attacks are prevented because the security forces rarely obtain advance warning of such attacks. Moreover, once the perpetrators of an attack have disappeared the detective service frequently lacks the resources and capacity to arrest the culprits.

## OVERVIEW OF THE CRIMINAL JUSTICE SYSTEM

It is the purpose of the criminal justice system to combat, prevent and reduce crime. It seeks to do this by preventing and detecting crime, by processing cases and trying offenders speedily and effectively, and by handing down appropriate sentences to those convicted of an offence.

South Africa's criminal justice system is not succeeding in this task. In 2000, some 2.6 million crimes were recorded by the police. Of these approximately 610,000 (24%) were referred to court, and the prosecution service took 271,000 (11%) cases to trial. These resulted in slightly more than 211,000 (8%) convictions.<sup>1</sup> Thus, out of the initial 2.6 million cases recorded, 8% resulted in the conviction of the perpetrators.<sup>2</sup> (At the time of writing 2000 is the last calendar year for which the aforementioned statistics were released.)

From the limited available evidence it would appear that the proportion of recorded farm attack cases resulting in a conviction is higher than the national average for all serious crimes. In a survey undertaken by the police's Crime Information Analysis Centre (CIAC) of farm attack cases that occurred in the Eastern Cape during 1999 and 2000, it was

<sup>1</sup> For a detailed description of the categories covered see Schönteich M. *Assessing the crime fighter: The ability of the criminal justice system to solve and prosecute crime* (Institute for Security Studies, Pretoria, 1999) p 6-10.

<sup>2</sup> Caution needs to be exercised when comparing the annual number of cases recorded with the annual number of cases withdrawn, sent to court, and prosecuted and convicted (also called the 'yearly-review' method). Cases recorded during one year, are often investigated and prosecuted during the following year. For example, the investigation of a complicated murder case reported in December 1999 might be finalised in mid-2000. The prosecution of the case may occur only in 2001. Rates based on the yearly-review method are premised on the assumption that the statistics are stable from year to year and that there is no growth or decline in backlogs. The advantage of the yearly-review method is that it is quick to collect data for an entire population. The yearly-review method is widely used both in South Africa and internationally. A study which tracked the outcome of individual cases (also called the individual case tracking method) came to similar results as the yearly-review method. See Paschke R *Conviction rates and other outcomes of crimes reported in eight South African police areas* (Research paper 18, Project 82, South African Law Commission, Pretoria, undated).

established that almost 43% resulted in a conviction. In comparison, in the CIAC's sample only just over 6% of recorded urban 'house robberies' resulted in a conviction.<sup>3</sup>

The CIAC has also made a comparative study between 'house robberies' on farms and those in urban areas in respect of the four provinces with the highest proportion of house robberies on farms, viz. Free State, Limpopo, Mpumalanga and North West. The Committee has some reservations about the validity of the data because of the relatively small sample of farm attacks in some provinces. According to this four provinces study, 17.3% of recorded 'house robbery' cases on farms resulted in a conviction, compared to 7.1% of recorded 'house robberies' in urban areas.

The poor performance of the criminal justice system should not be interpreted as a cause – or the primary cause – of crime. Crime occurs because individuals make a decision to engage in activities which are against the law. Such individuals are motivated by, inter alia, hatred, revenge, greed, envy, peer pressure or malice. These motives come about through a myriad of influences on people's lives, such as the behaviour of significant others, childhood upbringing, substance abuse, or levels of poverty and inequality in society. The criminal justice system, irrespective of its performance, neither causes such motives nor the factors that lead to their existence.

Nevertheless, how well the criminal justice system functions is important for several reasons. First, a relatively small proportion of offenders are believed to commit the majority of serious crimes, and especially organised crime. If these perpetrators are apprehended and convicted timeously, certain crimes can be reduced. Secondly, a functional system helps to deter some potential offenders from committing a crime. Thirdly, an effective and efficient justice system inspires confidence among victims and witnesses and encourages them to participate in the criminal justice process, thereby leading to the arrest and conviction of offenders. Finally, criminal justice successes – especially if well publicised – are essential for boosting public confidence in the Government's ability to reduce crime and make people feel safer.<sup>4</sup>

The converse to the above is that if a criminal justice system is not seen to be dealing with crime and criminals, members of the public may take the law into their own hands. As van den Haag puts it: 'When legal retribution is not imposed for what is felt to be wrong, or when retribution is felt to be less than deserved... public control falters, and the "passion for revenge" tends to be gratified privately.'<sup>5</sup> The popularity of vigilante groupings such as Mapogo-a-Mathamaga<sup>6</sup> is an apt example of members of the public taking the law into their own hands, with all the problems inherent in such a course of action.

It needs to be pointed out that the second point above – that deterrence in a criminal justice context works – is a tenuous one. The behavioural premise of deterrence is based on that of responsible and predominantly rational, calculating individuals – a premise that many criminologists call into question. Satisfactory empirical evidence of the effect of deterrence

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<sup>3</sup> See p 351.

<sup>4</sup> Schönsteich M. 'Security' in Kane-Berman J (ed) *South Africa Survey 2001/2002* (South African Institute of Race Relations, Johannesburg, 2001) p 105.

<sup>5</sup> See Nathanson S. *An Eye for an Eye?* (1987) p 11

<sup>6</sup> See p 323.

is difficult to obtain.<sup>7</sup> However, crimes primarily motivated by greed and involving a certain level of premeditation on the part of the offender, can be reduced through an effective criminal justice system. Offenders who attack farms, rob banks, hijack motor vehicles or commit fraud usually have to plan their nefarious deeds. This places them in a position to consider the consequences of their actions and weigh up the expected gains of their crimes with the likely punishment should they be arrested and convicted.

## **POLICING: PREVENTION AND DETECTION OF CRIME**

South Africa has one centralised police service, the South African Police Service (SAPS). The SAPS is responsible for preventing, combating and investigating crime, maintaining public order, protecting the inhabitants of the country and their property, and upholding and enforcing the law.<sup>8</sup>

### **Detected cases**

The majority of cases recorded by the police are not detected. There are two types of undetected cases. The first consists of cases where the suspect is unknown, and where there is insufficient evidence to enable the police to identify a suspect. In other words, these are cases which are not solved. The second type of undetected case is where a suspect has been identified and a warrant for his arrest has been issued, but the person's whereabouts are unknown.

In 2000, as a proportion of recorded cases, only 43% were detected. (See Figure ??) During that year less than a quarter of recorded car theft, aggravated robbery, and residential housebreaking cases were detected. (2000 is the last year for which case detection rates were released at the time of writing.)

The detection rate is low for cases where the perpetrator is likely to be unknown to the victim, and where there are no eyewitnesses to the crime. To solve such cases the police have to rely primarily on either forensic evidence (such as fingerprint marks), or circumstantial evidence (such as linking a suspect to a series of housebreakings that all show a similar *modus operandi*). The fact that the detection rate for these kinds of crimes is low, tends to indicate that the police's forensic and criminal investigation capabilities are weak.<sup>9</sup>

From information supplied to the Committee by investigating officers who investigate farm attacks, it appears that the detection rate in respect of farm attack cases – especially cases involving a serious and violent offence or offences – is relatively high.<sup>10</sup> This is, however, largely based on anecdotal evidence and the general perceptions of investigating

<sup>7</sup> Ashworth A. 'Sentencing' in Maguire M. et al (ed.'s) *The Oxford Handbook of Criminology* (Oxford University Press, New York, 1997) p 1098.

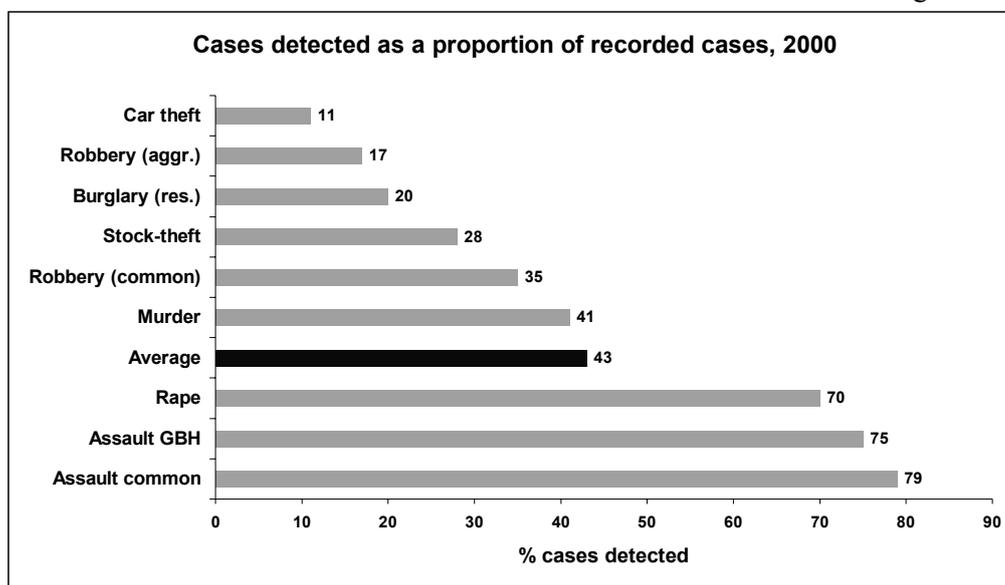
<sup>8</sup> Section 205(3) of the Constitution of the Republic of South Africa, Act no108 of 1996.

<sup>9</sup> During the 1980s the police's criminal investigation capabilities were neglected. During the apartheid era, only 1 in 10 members of the SAP were engaged in detecting and investigating crime. See Shaw M. and Camerer L. *Policing the transformation: New issues in South Africa's crime debate* (IDP Monograph Series 3, April 1996) p13.

<sup>10</sup> See p 172.

officers. Moreover, while no specific evidence is available, it would seem that the success rate of investigators vary from area to area. Especially in some part of KwaZulu-Natal, it would appear that the detection rate is below the national average.

Figure 6



Source

ce: SAPS Crime Information Analysis Centre

Reasons offered by investigating officers why the detection rate for farm attacks tends to be above average include the following:<sup>11</sup>

There usually is a relatively quick response by the police and the commandos, often resulting in speedy arrests.

- Usually a number of perpetrators are involved per attack. Consequently, once one perpetrator is caught, enough information can be obtained from the arrested perpetrator to identify and trace the other suspects.
- Many perpetrators of farm attacks tend to be young and inexperienced criminals. They often make mistakes such as leaving incriminating evidence behind at the crime scene.
- Perpetrators of farm attacks usually rob their victims of something. The more the perpetrators take, the greater the likelihood that they will try and sell their loot. This allows the police to trace such loot back to the farm attackers.
- Farm attacks are regarded as a priority crimes and are thoroughly investigated.

The CIAC office in the Eastern Cape undertook a survey of farm attack case dockets opened during 1999 and 2000. Of the 172 dockets investigated 46.8% had been detected. By comparison, only 7.6% of 'house robbery' cases (in urban areas) finalised in 2001 and dating mostly from 2000 and 2001, were detected. A different CIAC investigation of farm attack cases in the Free State, Limpopo, Mpumalanga and North West (also of dockets finalised in 2001) revealed a detection rate of 22.7%, whereas urban house robberies had a detection rate of 11.7%. It needs to be borne in mind, however, that the sample of farm

<sup>11</sup> Focus group interview of Mpumalanga investigating officers, conducted by Committee member, on 14 June 2002, at Middelburg.

attacks investigated in the latter study was relatively small – only 77 cases were looked at.<sup>12</sup>

### **Investigated cases referred to court**

Cases are referred to court by the police only after a suspect has been formally charged (and, in the case of a serious offence, arrested) by the police. In essence, cases are referred to court only if there is fairly substantial evidence against a suspect to warrant the person being charged with an offence.

The number of cases referred to court, as a proportion of the total number of cases recorded by the police, differ between crime types. On average just under a quarter (24%) of all cases recorded by the police are referred to court. In the Eastern Cape and four-provinces CIAC farm attack studies referred to above, respectively 47% and 23% of farm attack cases were referred to court. (As mentioned above, the latter figure may be somewhat unreliable because of the small sample on which it was based.)

The overall ability of the police to refer cases to court is high in respect of crimes where the perpetrators are likely to be known to their victims, or those that are often committed in the presence of eyewitnesses.<sup>13</sup> An above average number of murder, rape, and assault cases are consequently referred to court. However, crimes where the perpetrators are likely to be unknown to their victims, such as burglary, robbery and vehicle theft are less likely to be solved by the police and referred to court. While the South African case referral rate appears to be low, it has been reported that the police in the United Kingdom also fail to clear up about three-quarters of all offences.<sup>14</sup>

### **Evaluation and reasons for poor performance**

#### *Personnel numbers*

In 1995, the newly amalgamated SAPS employed approximately 140,000 people (functional police officers and civilians). Thereafter many police officers resigned and left the service. Only a few new recruits were employed because of a hiring moratorium over much of this period. In January 2003 the SAPS was left with 129,700 employees, of which 27,300 were civilians and approximately 21,000 detectives. Between late 1996 and early 2003 the number of functional police officers (uniformed personnel and detectives) declined by 12%. Over a similar period, recorded serious violent crimes increased by some 21%, and less serious violent crimes by some 32%.<sup>15</sup>

The medium-term expenditure framework for 2002/03–2005/06 provides for the appointment of an additional 30,200 entry-level police constables and 15,360 civilians over

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<sup>12</sup> See p 351..

<sup>13</sup> According to a 1997 Institute for Security Studies victims survey conducted in Johannesburg, the majority of assault, rape, and murder victims (or members of the victim's household in the case of murder) knew the offender by name or by sight. See Louw A. et al *Crime in Johannesburg. Results of a City Victim Survey* (ISS Monograph Series 18, February 1998) p 23-24.

<sup>14</sup> 'Criminal Justice: Guilty as charged' *The Economist*, 9 March 2002, p 40.

<sup>15</sup> Serious violent crime: murder, attempted murder, rape, aggravated robbery, assault with the intent to inflict grievous bodily harm. Less serious violent crime: common robbery and common assault.

a three-year period. The budget also provides for the replacement of posts which should become vacant over this period. By early 2006, the SAPS should have 155,260 employees. Moreover, because of stringent hiring requirements the average education level of police officers should be higher in 2006.

In October 2002 there was an average of one functional police member for every 450 residents in South Africa. The ratio compares well with developing countries but poorly with many developed countries. For example, according to 1999 Interpol data, the number of residents per functional police officer were 225 in Portugal, 329 in Brazil, 492 in Namibia and 654 in Zimbabwe. Compared to more developed countries, South Africa's relatively low civilian to police officer ratio is exacerbated by a number of factors:

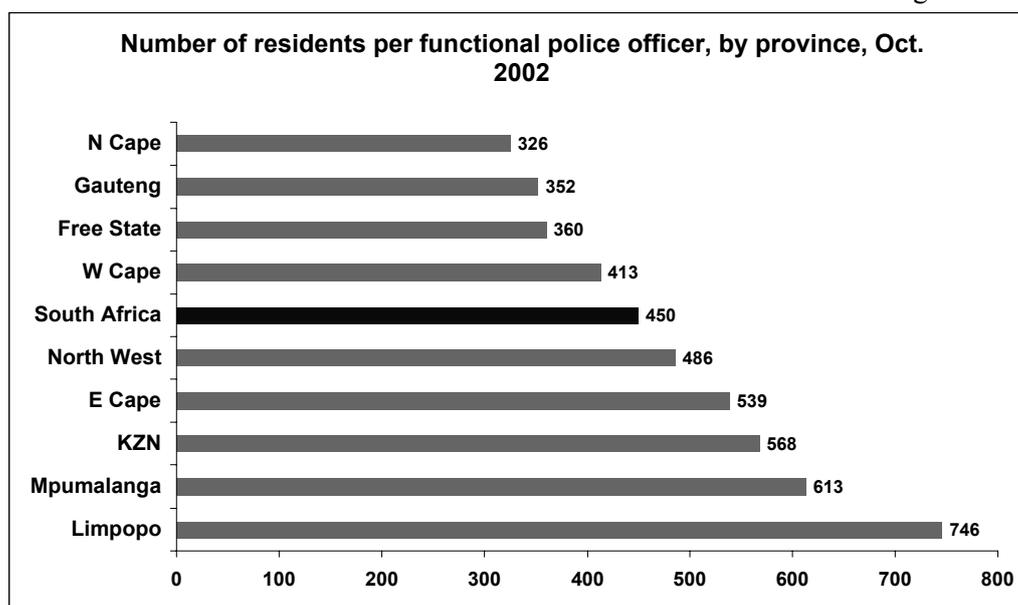
- South Africa has a high crime rate, especially in respect of serious and violent crime. According to International Criminal Police Organisation (Interpol) statistics, South Africa has very high per capita rates of murder, rape, robbery and serious assault. Because of high levels of recorded crime, South Africa has a relatively low police officer to crime ratio. Thus, while South Africa has an average of only six police officers per recorded murder a year, Zambia has 12, Egypt has 93 and Malaysia 249.
- There is a strong relationship between age and crime. South African conviction figures show that young males are considerably more at risk of being convicted for a wide range of crimes than older males, or females of any age group.<sup>16</sup> South Africa has a relatively youthful population. According to the 1996 national census a third of the South African population was under the age of 15 years, and 44% under the age of 20 years.
- South Africa is geographically large with the result that police resources are thinly spread in the country's rural areas. For example, the Northern Cape has an average of one police officer for every 133 square kilometres. Nationally there is, on average, one police officer for every 12 square kilometres.
- It is a worldwide phenomenon that crime rates are higher in cities than in rural areas, with the rate generally increasing according to city size. Population density, for example, is thought to be associated with crime, in that greater concentrations of people lead to competition for limited resources, greater stress and increased conflict. South Africa has a rapidly urbanising population. Rapidly expanding cities, and the unstructured terrain of the growing number of informal settlements, makes effective policing difficult.

South Africa's police personnel are not deployed equally across the country.<sup>17</sup> For example, while there were 450 residents for every functional officer in South Africa as a whole in late 2002, the provincial ratios ranged from 1: 746 in Limpopo to 1:326 in the Northern Cape. (See Figure 7.) Regarding farm attacks, it is interesting to note that Mpumalanga and KwaZulu-Natal are usually among the top three provinces in respect of the highest number of recorded incidences. Purely from a farm attack perspective it is therefore unfortunate that these two provinces have one of the highest police officer to resident ratios (i.e. are significantly under-policed, even by South African standards).

<sup>16</sup> Schönteich M. 'The dangers of youth? Linking offenders, victims and age' in *Nedcor ISS Crime Index 3(5)* (Institute for Security Studies, Pretoria 1999) p 22-28).

<sup>17</sup> Schönteich M. 'The thin blue line: Police resources in the provinces' in *ISS Nedbank Crime Index 4(2)* (Institute for Security Studies, Pretoria, 2000) p 15-20.

Figure 7



Sou

rce: SAPS Efficiency Services

In a 1998 survey of black rural residents in six of South Africa's predominantly rural provinces, respondents were asked what Government should do to make rural areas safer. The most frequent response was that Government should improve the accessibility of the police (50%) by deploying more police, building more police stations, making police available 24 hours a day and equipping the police with more vehicles and phones. This response was followed by creating more jobs (23%), and heavier penalties for offenders (17%).<sup>18</sup>

The survey also asked respondents how often they see a police officer on duty in their area. A third (34%) responded that they "never see a police officer", followed by those who said they saw a police officer: less than once a month (32%), more than once a month (18%), at least once a week (10%) and every day (7%).<sup>19</sup>

#### *Top-heavy personnel structure*

Partly to meet ambitious affirmative action targets, and to increase the proportion of officers in higher rank-related salary categories, police personnel numbers at middle and higher management level are unhealthily high. There is almost one commissioned officer (of the rank of captain and higher) for every six non-commissioned officers in the police service. Out of 102,349 functional police officers employed by the SAPS in January 2003, only 12,191 (or 12%) were constables.

The SAPS has nearly five times more inspectors and one-and-a-half times as many sergeants as constables. Such a misdistribution of ranks is illogical in terms of functional

<sup>18</sup> Pelser E., Louw A. and Ntuli S. *Poor safety: Crime and policing in South Africa's rural areas* (ISS Monograph Series 47, May 2000) p 48.

<sup>19</sup> Pelser E., Louw A. and Ntuli S. *op cit* 61.

responsibilities.<sup>20</sup> The South African distribution appears to be the opposite of international policing norms. While the ratio of sergeants to constables is 1.5 to 1 in South Africa, it is 1 to 4.5 in Australia, 1 to 5 in Britain and 1 to 6.4 in the United States. Sergeants and constables comprise over 90% of all members in Australia and Britain. In South Africa they comprise under a third (30%) of total staff (excluding civilian personnel).<sup>21</sup> The result is that there is no real differentiation of function between non-commissioned officers. The virtue of a military-type structure, with every incident having a clear line of responsibility associated with it, is blurred in the SAPS.

As a consequence of the relatively small number of junior ranked officers, the SAPS has become an over-managed organisation, where the higher management echelons devour personnel-related resources at the expense of junior officers responsible for station and street-level policing work. However, the low proportion of constables in the SAPS will be alleviated significantly by the recruitment of the additional 30,200 entry-level constables by early 2006.

### *Criminal investigations*

The general quality of the police's detective work appears to have declined in the post-1994 period. This was partly to be expected. Before 1994, the South African Police (SAP) used authoritarian policing methods and tough law enforcement strategies to combat crime. Using a confession based approach to solving crime, some SAP detectives were more concerned about getting crime suspects convicted than upholding the law and conducting investigations in a legally correct manner.<sup>22</sup> Changing from a confession based to an evidence based manner of collecting evidence, required a significant change in the way many experienced detectives performed their work.

Detectives are overloaded with cases – as much the result of mismanagement than of vast numbers of cases alone. Instead of teaming up to tackle cases on a case by case basis, each detective gets an unmanageable load to tackle on his own.<sup>23</sup>

Detectives argue that, at the most, they can properly deal with ten serious cases at any one time. Officially, the ideal number of dockets per detective is 18.<sup>24</sup> However, even detectives from specialised units often have to handle 50 or 60 matters at any one time. The consequence of such overloading is that the investigation is administered rather than the case solved. Investigated cases become so old that they are eventually dropped as the complainant, witnesses, and other persons involved lose interest. Alternatively, evidence may be lost and witnesses' memories may fail them. Withdrawals of charges, and prosecutors declining to prosecute are often the result.

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<sup>20</sup> Leggett T. 'Everyone's an inspector: the crisis of rank inflation and the decline of visible policing' in *SA Crime Quarterly 1* (Institute for Security Studies, Pretoria, 2002) p 23)

<sup>21</sup> Ibid.

<sup>22</sup> See Altbeker A. *Solving crime. The state of the SAPS detective service* (Institute for Security Studies, Pretoria, 1998) p 49, where the point is made that a confession driven investigative approach did not dominate all SAP detective units. Many units – especially those dealing with less serious crimes - relied less on confessions and complied more closely with the law.

<sup>23</sup> Redpath J. *Leaner and meaner? Restructuring the SAPS detective service* (Institute for Security Studies, Pretoria, 2002)

<sup>24</sup> S. V. Tshwete, Minister of Safety and Security, written reply to parliamentary question no. 1111, National Assembly, 15 June 2001.

Detectives' workload varies from one province to the next. In 2000, the national average was one detective for every 118 serious crimes recorded by the SAPS. Overburdened were detectives in the Western Cape (1 detective for every 211 recorded crimes), Mpumalanga (1:135), and Gauteng (1:134). By contrast, some provinces had one detective for fewer than 100 recorded crimes in 2000: Limpopo (1:94), Eastern Cape (1:96), and Free State (1:98).

### *Shortage of skills*

The shortage of police personnel is exacerbated by inadequately trained officers in the service. At the end of 1999, the outgoing National Commissioner of Police, George Fivaz, conceded that close to a quarter of SAPS members were "functionally illiterate".<sup>25</sup> According to the late Safety and Security Minister, Steve Tshwete, in 2000 almost 35,000 police officers had a standard eight qualification or lower.<sup>26</sup> The low educational levels of many police officers make it difficult, and even impossible, for them to write down complaints, fill out dockets, give articulate testimony in court, and fulfil any but the most basic policing duties.

Many competent detectives leave the detective service for employment with private companies, such as forensic auditing companies and private investigation firms, for posts at academic institutions, and for posts with the Directorate of Special Operations ('the Scorpions'). It is not only white police officers who have left the police service because of the perceived reverse discrimination of affirmative action. There are documented cases of experienced black detectives leaving the SAPS after 1994 because their expectations, that they would receive due recognition under the new dispensation, failed to materialise.<sup>27</sup>

The skills drain is a further problem with which detectives who remain in the SAPS have to contend. The loss of skills means fewer mentors for new detectives, fewer possibilities for teamwork and greater loads on experienced detectives. The restructuring of the detective service is meant to respond to many of the aforementioned problems. However, the skills drain could worsen should the restructuring process be handled badly and further demoralise the country's detectives – as has happened with some of the specialised units that have been closed down.<sup>28</sup>

### **Rural Protection Plan**

In the mid-1990s, the apparent increase in the incidence of farm attacks started receiving widespread publicity. In response organised agriculture approached the Government for something be done to prevent attacks on the farming community. Organised agriculture felt that the security structures existing at the time were not functioning effectively; specifically, that follow-up actions by security force personnel after farm attacks were

<sup>25</sup> Hadland A. *Many cops 'illiterate'* (in 'Natal Mercury', 24 September 1999)

<sup>26</sup> S. V. Tshwete, Minister for Safety and Security, written reply to parliamentary question, 10 March 2000, question no. 309, National Assembly.

<sup>27</sup> De Haas M. *The more things change... Policing in the new South Africa* (1999)

<sup>28</sup> See Redpath J. *Leaner and meaner? Restructuring the SAPS detective service* (Institute for Security Studies, Pretoria, 2002.)

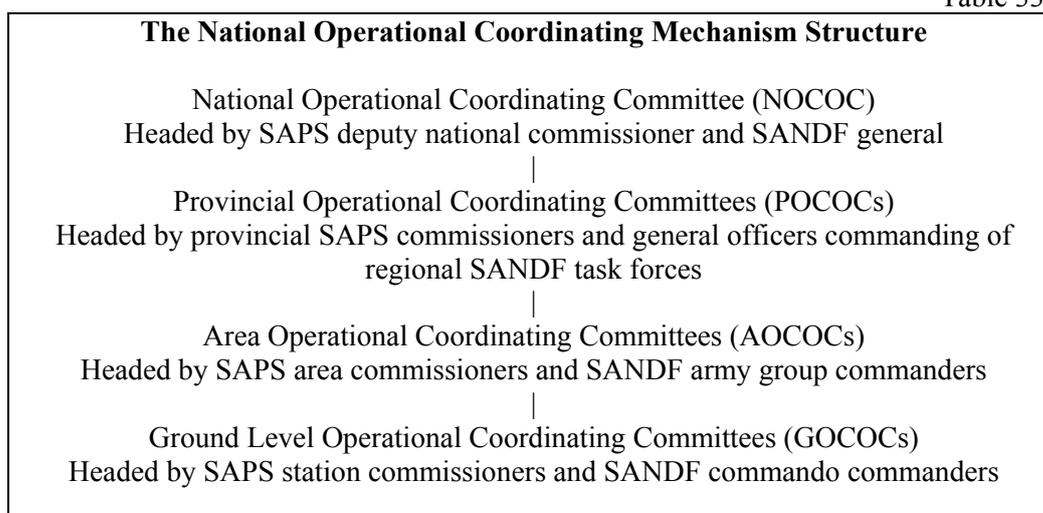
largely uncoordinated, which hampered the arrest of suspects.<sup>29</sup> In October 1997 the ‘Rural Protection Plan’ was initiated at the request of the then president, Nelson Mandela.<sup>30</sup>

The object of the Rural Protection Plan is to encourage all role players in rural safety to work together in a coordinated manner, and engage in joint planning, action and monitoring to combat crime in the country's rural areas.<sup>31</sup> The structure – from national to local level – of the National Operational Coordinating Mechanism, within which the Rural Protection Plan is coordinated, is shown in Table 33.

With the establishment of the Justice, Crime Prevention and Security Cluster (JCPS) in 2000, the membership of NOCOC was broadened to include about twelve Government departments (including the National Intelligence Coordinating Committee, or NICOC) which are part of the JCPS.

Every committee (NOCOC, POCOC, AOCOC and GOCOC) has its own priority committees, including a Priority Committee for Rural Safety. The priority committees are responsible for the operational planning and implementation for the Rural Protection Plan.<sup>32</sup> That is, the Rural Protection Plan seeks to effectively coordinate the operational activities of all relevant role players within the Priority Committees for Rural Safety.

Table 33



Source: NOCOC

Priority Committees are inter-departmental committees, mainly supported by the SAPS and the South African National Defence Force (SANDF), and to a lesser degree the Departments of Justice and Constitutional Development, Correctional Services, and Welfare and Social Development. Also included are organised agriculture, provincial and

<sup>29</sup> Visser J.M.J. ‘Violent attacks on farmers in South Africa’ in *ISSUP Bulletin* 3/1998 (Institute for Strategic Studies) p 11-12.

<sup>30</sup> Interview with Lt. Col. H. J. Boshoff, National Operational Coordinating Committee, Pretoria, 20 April 1999.

<sup>31</sup> Visser J.M.J. . *op cit* p 12.

<sup>32</sup> Interview with Lt. Col. H. J. Boshoff, National Operational Coordinating Committee, Pretoria, 17 February 2000.

local government and any other person, group or organisation which can play an active role in, or support, the Rural Protection Plan.<sup>33</sup> Other functions of the Priority Committees for Rural Safety include: coordinating all security related actions relating to rural protection; identifying factors that have a negative influence on the safety of the farming community; distributing relevant information; and providing feedback on the Rural Protection Plan to all relevant role players.<sup>34</sup>

The available statistics on farm and smallholding attacks indicate that over the four years after the launch of the Rural Protection Plan in late 1998 the number of recorded incidents increased (albeit to a greater extent in respect of attacks on smallholdings). During the same period, however, the number of recorded murders associated with farm attacks stabilised at between 140 and 150 per year, which means that, relatively speaking, the murder rate declined.<sup>35</sup> It needs to be borne in mind, however, that the number of murders recorded in South Africa as a whole has been declining since 1994.

The point has been made that the Rural Protection Plan's success varies from one geographic area to the next.<sup>36</sup> Generally the SAPS and the SANDF (as well as the police reservist structures and the SANDF's Commandos) cooperate and assist each other. However, civilian participation – especially among farm workers – is inadequate. The state security forces are too thin on the ground in the country's rural areas to prevent farm and smallholding attacks in any meaningful way. More extensive civilian participation is consequently crucial if the plan is to succeed.

### **The Commandos**

The commandos (officially called the 'Territorial Reserve Force System') play an integral part in the Rural Protection Plan. Members of the public can belong to one of three types of Commando structures:

*Area bound reaction force commandos:* These are generally staffed by people who live in urban areas. In an emergency the local commando to which they belong can call them up for duty. Having been called, such commando members are issued with a rifle and uniform, which they have to return once they are booked off duty. These commando members are paid for the hours they work. Area bound reaction force commando members are trained jointly with police reservists to conduct patrols, roadblocks, follow-up operations, cordon and search operations, and farm visits.<sup>37</sup>

*Home and hearth protection reaction force commandos:* These are staffed by farmers and smallholders, and their workers. Members of this type of commando are responsible for assisting other farmers and smallholders in their district only if a farm or smallholding attack has occurred. Such commando groups then go into action (for example, setting up

<sup>33</sup> Interview with Lt. Col. H.J. Boshoff, National Operational Coordinating Committee, Pretoria, 20 April 1999.

<sup>34</sup> *National Operational Coordinating Committee crime prevention and response service*, National Operational Coordinating Committee document, Ref. NOCOC/3/9, 29 September 1998, p 5.

<sup>35</sup> See p 23.

<sup>36</sup> Schönsteich M. and Steinberg J. *Attacks on farms and smallholdings. An evaluation of the Rural Protection Plan* (Institute for Security Studies, Pretoria, 2000) p 87.

<sup>37</sup> *National Operational Coordinating Committee crime prevention and response service*, National Operational Coordinating Committee document, 29 September 1998, Ref. NOCOC/3/9, p 6.

road blocks or searching an area) until the area bound reaction force commando members arrive on the scene and take over.

*House and hearth protection commandos:* These are also staffed by farmers and smallholders, and their workers. Members of this type of commando are not called up, but are responsible for protecting themselves and their own farm or smallholding if under attack. Such commando members are issued with a military rifle only if they do not possess their own rifle.

The commando system relies on various forms of radio-communication to ensure quick response times in emergencies. Participating farmers are issued with short-wave radios, such as the so-called Marnet system, to give them direct access to the commando unit(s) active in their area, which would normally be the home and hearth reaction force commando. Because many members of the commando are usually within the immediate vicinity of an incident, they are able to respond much faster than the police, and they would take the type of action described above. The responsible commando member would nevertheless immediately alert the police.

It should be noted, however, that the commandos can never and should never take over the task of the police. They cannot investigate crime and can only carry out a citizen's arrest. The commando system has been criticised by certain persons and institutions, sometimes with justification. It has been said that some commando members act as a law unto themselves, and act in a racially prejudiced manner.<sup>38</sup> It has also been said that it is wrong in principle for the SANDF, in the form of commandos, to become involved in the combating of crime, which should be the function of the police service alone.

There can be little doubt, however, that the commando system has often filled a vacuum that the police are unable to fill. There are many cases that the Committee has come across where the commandos have saved the lives of victims of farm attacks, or where they have apprehended the perpetrators before they could escape, where there was no possibility that the police could have done so.

### **Phasing out the Commandos**

In the late 1990s Parliament approved the inclusion of the commandos within the force design of the SANDF. This was because of the importance of a viable part-time component within the structure of the SANDF to support the national defence posture and the efficiencies inherent in part-time forces during peace time. However, both the Defence Review and the Defence White Paper emphasise the need to disengage the SANDF from its support role to the SAPS. Moreover, that it is inappropriate to use the country's armed forces in a policing role on a permanent or even semi-permanent basis.<sup>39</sup>

In February 2003 President Thabo Mbeki announced that the commandos would be disbanded. According to the SANDF this will be done in a phased and controlled manner

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<sup>38</sup> Human Rights Watch *Unequal protection: The State response to violent crime on South African farms* (2001) p 231-233.

<sup>39</sup> Statement by Vice Admiral H.J.M. Trainer, Chief of Corporate Staff of the SANDF, at a roundtable discussion held on the phasing out of the Commando system at the Institute for Security Studies, Pretoria, 5 March 2003.

in close cooperation with the SAPS over a six year period. In terms of the withdrawal process the commandos will withdraw first from the country's urban areas, followed by the rural areas. At the time of writing an inter-departmental task team (including the SANDF and SAPS) had been established to plan the phasing out of the commandos and design the structures which will replace the commandos – especially in the rural areas.<sup>40</sup>

In terms of the SAPS' planning at the time of writing, the police intends launching two initiatives in respect of rural safety which are intended to replace the commandos:

*Area Crime Combating Units.*

The intention is that one Crime Combating Unit should be established in each of the 43 police areas in the country. The basis of the Units will be the present Public Order Police Units, strengthened by other relevant SAPS units such as the police air-wing. The Crime Combating Units will primarily be reactive in nature, by having a rapid response capability and the capacity to conduct follow-up operations *after* an incident (such as a farm attack) has happened.<sup>41</sup> One of the aims of the Crime Combating Units will be to ensure the rapid stabilisation of an area. Thereafter other role players, such as visible police officers, police patrols, and officers tasked with developing crime prevention initiatives, are supposed to put the necessary plans in place for longer-term stabilisation and normalisation of the crime situation.

*Sector Policing.*

Sector policing entails the division of a police station area into manageable geographic areas or sectors, ideally numbering between five and eight. Police personnel are allocated to every sector on a dedicated basis to enable them to become familiar with the terrain of 'their' sector and the people who live and work there.

In a rural context sector police personnel are responsible for mobilising and organising the rural communities in 'their' sectors. Sector police officers are further supposed to create 'sector crime forums' where such officers in conjunction with community members can discuss security related issues affecting their area and identify solutions to local security related problems. These will be similar to the existing Community Policing Forums. Communities will be able to hold sector police officers accountable via their sector crime forums.

Sector policing takes a preventative approach to crime, as opposed to the reactive approach of the aforementioned Crime Combating Units. Through the close interaction with the public, sector police officers are expected to identify the underlying causes of crime in their sectors. In this way some crimes should be preventable *before* they occur. Where necessary, sector police officers will be able to call on their station to provide assistance with, for example, a high visibility police operation.

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<sup>40</sup> Statement by Vice Admiral H.J.M. Trainer, Chief of Corporate Staff of the SANDF, at a roundtable discussion held on the phasing out of the Commando system at the Institute for Security Studies, Pretoria, 5 March 2003.

<sup>41</sup> Statement by Assistant Commissioner F.J. Burger, Head of Operational Coordination of the SAPS, at a roundtable discussion held on the phasing out of the Commando system at the Institute for Security Studies, Pretoria, 5 March 2003.

Ideally, each sector should have a 'sector manager' and an 'assistant' (i.e. two full-time police officers per sector). An additional R4.9 billion over a three-year period (2003/4 - 2006/7) has been allocated to implement and expand the sector policing strategy.<sup>42</sup> Notwithstanding these additional monies, because of SAPS personnel constraints it will not be possible to place permanent police officers in all sectors in a station's area. Consequently the SAPS has proposed that use will be made of police reservists. There may even be sectors where all sector policing officers will be reservists. With this in mind, the SAPS intends creating a new category of reservist, the 'Rural and Urban Sector Policing Reservist'. Such reservists will not need a standard 10 qualification (12 years of schooling) so as not to disqualify a large part of the rural population which lacks a high level of formal education.<sup>43</sup>

In his submissions to the Committee on 17 October 2001 Assistant Commissioner Johan Burger, Chairman of the NOCOC Priority Committee on Rural Safety, expressed the view that the sector policing system will be able to serve the farming community better than the present rural security structures.<sup>44</sup>

### **Non-state forms of rural security**

According to the Security Industry Regulatory Authority (SIRA), there were 5,600 private security businesses and 210,000 active security officers registered in South Africa in 2002.

Where appropriate the farming community makes use of the private security industry to protect them and their families and workers. This is more often the case in respect of smallholdings which are closer to urban areas and which are situated fairly closely together, and farms on the outskirts of cities and towns. Farms in the deep rural areas or in places where individual farms are far apart are generally not easily protected by private security companies.

A 1999 study of farm safety in the KwaZulu-Natal Midlands found that farmers responded to the lack of police capacity by hiring private security firms which offered guarding, patrol and reaction services. At the time it was estimated that there were as many as 40 private security firms operating in the farming districts of the Midlands area.<sup>45</sup>

An example from the late 1990s, where farmers made use of private initiatives to secure their farms and lives, was the Ixopo Farm Watch in the Midlands. The Farm Watch was a so-called non-profit section 21 company that, in 1999, employed ten full-time employees, six of them professional security personnel. The Farm Watch was a civilian initiative that took the lead in crucial spheres of policing work, from intelligence gathering to proactive policing and rapid response, and to an extent, investigation. The Farm Watch had a board of directors, a central committee and four action committees, one for each of the area's four districts. Each action committee employed one co-ordinator, a full-time position funded by the Farm Watch. The central committee met once a month to exchange

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<sup>42</sup> Barnard B. 'R2.7bn to stamp out crime' in *Union Post* 8(3), April 2003.,

<sup>43</sup> Statement by Assistant Commissioner F.J. Burger, Head of Operational Coordination of the SAPS, at a roundtable discussion held on the phasing out of the Commando system at the Institute for Security Studies, Pretoria, 5 March 2003.

<sup>44</sup> See p 190.

<sup>45</sup> Schönsteich M. and Steinberg J. *op cit* p 61-68.

information and to plan proactive crime-prevention measures. The managing director met with the police's crime intelligence, the serious and violent crime unit, and the stock theft unit every day. Virtually all commercial farms in the area belonged to the Farm Watch and paid annual fees. Every member of the Farm Watch was organised into a security cell and had a two-way radio. All cell members were within eight minutes driving distance from each other.

The nerve centre of the Farm Watch was an operations room. In the event of a distress call both the local security cell and the operations room were activated. The former raced to the scene of reported farm attacks. The operations room did two things. First, it contacted the appropriate district's co-ordinator as well as the appropriate police unit. The co-ordinator and the police arrived on the scene together. Thereafter, the co-ordinator remained intricately involved in the police investigation. Second, the operations room alerted other co-ordinators who, depending on the nature and location of the crime, moved into the area's key access points. (This function was crucial because most armed robberies in the area appeared to emanate from Durban and perpetrators fled on a regional arterial road stretching between Richmond and Durban.)

The Farm Watch's four co-ordinators constituted the pivot of its operation. They played every imaginable policing role, from information collecting, to intelligence-gathering, to mediation, to response, to investigation. They spent eight to ten hours a day in their respective districts and had an intimate knowledge of their respective jurisdictions.

For a variety of reasons, including managerial problems, the Ixopo Farm Watch is no longer in operation. The Ixopo Farm Watch is an example of the problems such operations can generate in rural communities.<sup>46</sup> However, what is still working successfully in the Ixopo area at the time of writing, is a cell system to which farmers belong, and use to keep in regular contact with each other. Farmers in the area conduct regular radio checks with each other (usually every evening) and, if there is a lack of response from a farmer, a neighbour is contacted to go and physically check that everything is in order with the non responding farmer.

Like the commando system, private security companies have (as indicated above) also been criticised, usually for the heavy-handed manner in which they often perform their task and the way in which the rights of citizens are sometimes infringed upon.

In desperation some rural communities, including farmers, have turned to vigilantes to fight crime and criminals. A Markinor poll amongst commercial farmers in early 2001 found that almost two-thirds of respondents would 'take the law into their own hands' if farm violence was not stopped.<sup>47</sup>

Mapogo-a-Mathamaga, for example, which openly advocates corporal punishment for suspected criminals, claims to have 70,000 fee paying members.<sup>48</sup> Notwithstanding the fact that some of Mapogo's leaders are facing charges of murder, assault and kidnapping, the organisation enjoys wide-spread support among middle class suburbanites and commercial farmers alike. In fact, Mapogo is probably unique among South African vigilante

<sup>46</sup>See Human Rights Watch *Unequal Protection* (2001) p 220

<sup>47</sup>Thompson C. *Militant farmers' myth* in *The Citizen*, 2 April 2001

<sup>48</sup>Sekhonyane M and Louw L. *Violent justice. Vigilantism and the state's response* (Institute for Security Studies, Pretoria, 2002) p 36.

organisations, in that it has support across race and class lines in both urban and rural areas in at least five of the nine provinces. Mapogo has the support of white farmers and business people, black business people, the rural poor, pensioners, teachers, and right-wing political supporters. ‘This support is based on the belief that Mapogo will deliver swift and harsh punishment and thus deter crime... In essence Mapogo presents an affordable and appealing alternative to the ailing criminal justice system and the continued high levels of crime.’<sup>49</sup>

The leader of Mapogo, Montle Magolego, admits that his organisation is willing to assist farmers in their efforts to combat crime on their farms: ‘When a farmer beats up a black person it is called racism. We in Mapogo have invited farmers to join and Mapogo will do the beating on their behalf.’<sup>50</sup>

## PROSECUTION PERFORMANCE

Contrary to popular belief, the decision by the prosecution service whether to prosecute in a particular case or not, is not taken on the basis that there must be a *prima facie* case. The test is rather whether there is a reasonable prospect of a successful prosecution. This may well mean that some cases, where there is *prima facie* evidence, are not prosecuted because the prosecution is of the opinion, for example, that the evidence of the complainant will not be accepted by the court or that the confession made by the suspect will be found by the court to be inadmissible. This is sometimes the reason why farmers may complain that ‘everybody knows who the guilty person is, but he is not arrested and brought to trial’.

### Conviction rate

Of the 358,123 cases the prosecution service took on in 2001 (i.e. that were prosecuted), 81% resulted in a conviction and 19% in an acquittal or not guilty finding. (See Figure 8.)

This means that, once cases are successfully processed through most of the criminal justice system, with the suspects ending up in the accused box in court, their chances of being convicted are high. Unlike the police, however, prosecutors have the luxury of being able to decide which cases to take on. As mentioned above, the prosecution service elects to proceed in the prosecution of a suspect, only where ‘there is sufficient and admissible evidence to provide a reasonable prospect of a successful prosecution’.<sup>51</sup>

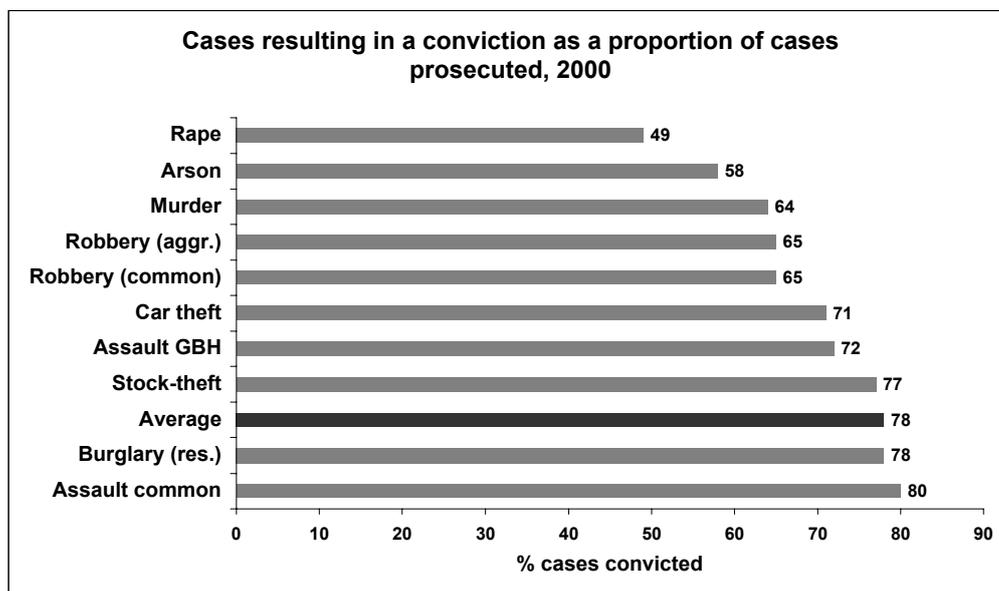
There is a considerable variation in the conviction rate between crime types. During 2000, over three-quarters of assault common, residential housebreaking and stock-theft prosecutions resulted in a conviction, while conviction rates for arson and rape were below 60%. (2000 is the last year for which case detection rates were released at the time of writing.)

<sup>49</sup> Sekhonyane M. and Louw, A. *op cit* p 3.

<sup>50</sup> Cited in: Sekhonyane M. and Louw A. *op cit* p 42.

<sup>51</sup> This is the test prosecutors are supposed to use when deciding whether to institute a prosecution against a suspect. See National Prosecuting Authority of South Africa Policy Manual, October 1999, Pretoria, p. A.3.

Figure 8



Source: SAPS CIAC

In the Eastern Cape study of farm attacks, it was found that of the 36 cases that were tried during 1999 and 2000, no fewer than 33 (92%) resulted in a conviction. The success rate for urban house robberies finalised in the Eastern Cape during 2001 was 80%. This is also relatively high, but it should be remembered that the sample was very small, with the results of only five cases being considered. One case could therefore make a big difference. In the four-provinces CIAC study mentioned above the success rate for the prosecutions of house robberies on farms was 77%, whereas the success rate in urban house robbery cases was 60%. Generally there is persuasive anecdotal evidence to conclude that the success rate for the prosecution of farm attack cases is significantly above the average. It supports the claims made by the police service that farm attack investigations are usually undertaken by senior and experienced detectives, and are then allocated to experienced regional court prosecutors or state advocates.

### Case withdrawals

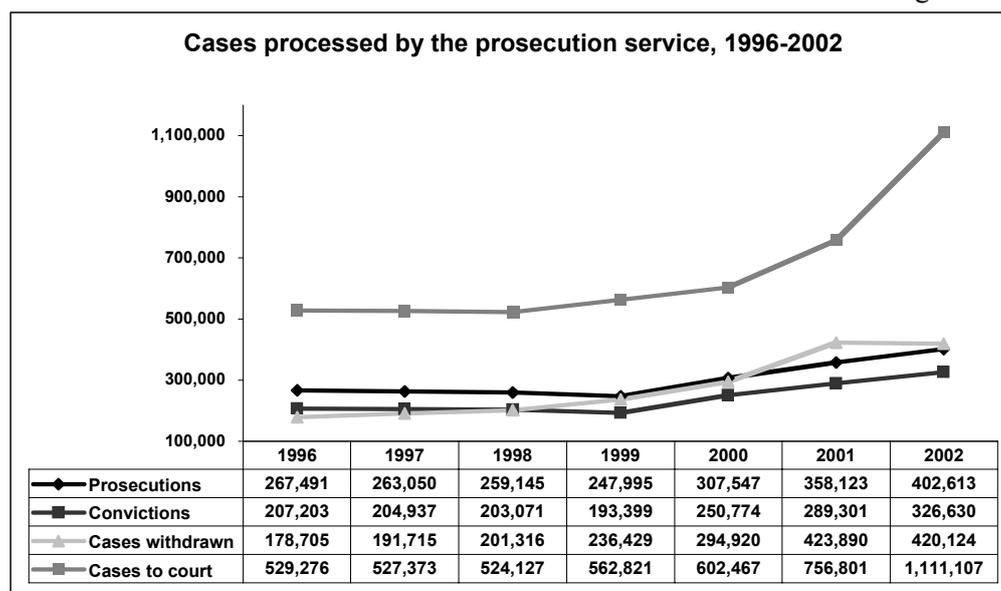
Between 2000 and 2001 the number of new cases referred to court increased by a substantial 26%.<sup>52</sup> Between 2001 and 2002 the number of new cases increased by a massive 47%. The 2000/01 increase was the likely result of the police's National Crime Combating Strategy (NCCS), also known as 'Operation Crackdown'. The Operation is high density, zero tolerance type police and army operations, taking place in high crime

<sup>52</sup> The data for this Figure comes from two different sources. The data for the years 1996-1999 is from the police's Crime Information Analysis Centre, while the 2000-2002 data is from the NPA's Court Management Unit. The NPA has been collecting court-related performance statistics since mid-1999. Compared to the police, the NPA is more intimately involved with what happens in the country's courts. Consequently use is made of NPA court-related statistics whenever these are available. Readers should note, however, that the CIAC and NPA statistics do not always coincide. Thus, for 2000 the NPA recorded 307,547 prosecutions compared to the police's 271,057. No CIAC prosecution statistics for 2001 and 2002 had been released by the police at the time of writing.

areas since April 2000. Some 462,000 arrests were made during first 12 months of the three year operation.<sup>53</sup>

According to the NPA, 756,801 new criminal cases entered the magistrates' or lower court system during 2001.<sup>54</sup> During 2002 the number of new cases rose to 1.1 million.<sup>55</sup> (See Figure 9) No figures are given for the High Courts, but less than 5% of all criminal cases end up there.<sup>56</sup>

Figure 9



Source: SAPS CIAC, NPA Court Management Unit

The steady increase in the number of cases withdrawn by the prosecution service was halted during 2002. The marked increase in the number of withdrawn cases during 2000 and 2001 was partly the result of an initiative started in mid-2000 by the NPA, to encourage prosecutors to withdraw cases which are flawed in some way and not ready to proceed to a successful prosecution.<sup>57</sup>

## Evaluation and reasons for poor performance

### *High staff turnover*

<sup>53</sup> New plan to 'chop farm attacks', *Pretoria News*, 14 February 2001.

<sup>54</sup> *Annual Report 2001/2*, National Prosecuting Authority, Pretoria, 2002, annexure B.

<sup>55</sup> E-mail from Adv Marelize Potgieter, NPA Court Management Unit, 17 March 2003.

<sup>56</sup> Over 95% of all criminal trials take place in the magistrates' courts (also known as the lower courts). There are two types of magistrates' courts: regional courts and district courts. The vast majority of serious crimes such as murder, rape, aggravated robbery and car theft are prosecuted in the regional courts. Less serious offences such as assault, shoplifting, malicious injury to property and driving related offences are prosecuted in the district courts. Only the most serious crimes such as serial murders and particularly violent rapes are usually prosecuted in the High Court.

<sup>57</sup> Interview, Adv Marnus Steyn, Court Management Unit, National Prosecuting Authority, 23 October 2000, Pretoria.

Between 1994 and 1997 some 630 prosecutors resigned. Between them they had the equivalent of more than 2,000 years of work experience as prosecutors.<sup>58</sup> A rapid turnover of staff impairs the professional capacity of the prosecution service. Prosecuting is a practically orientated profession. It requires the ability to apply legal theory to the actual cases before court, to sum up the demeanour and expression of witnesses quickly and correctly, and to present various forms of evidence and witnesses to build up a convincing case. Many of these skills cannot easily be taught and are acquired and perfected through practice and experience. The high staff turnover in the prosecution service is closely related to low remuneration levels of prosecutors, although that has improved significantly over the last few years. The loss of experienced prosecutors was also one of the side-effects of affirmative action, which made the profession less attractive for especially white males.

#### *Rising workload*

As a result of the lack of staff – especially senior and experienced prosecutors – the prosecution service is unable to effectively deal with all the cases referred to it by the police. Between 1987 and the end of 1999 the number of prosecutors increased by 79%. Over the same period the number of many serious crimes recorded by the police more than doubled. Serious assault rose by 112%, murder by 143%, rape by 182%, and robbery by 265%.<sup>59</sup> An improvement in the average case load per prosecutor took place in 2001 and 2002, as the rate of increase of recorded crime slowed down and more prosecutors were appointed.

#### *Changing legal environment*

South Africa's post-1994 constitutional dispensation guarantees the right of every accused person to be presumed innocent.<sup>60</sup> Thus, in any criminal trial, the onus is on the state to prove its case beyond a reasonable doubt. South African common law has long recognised this right. However, before 1994, a number of laws were on the statute books which sought to assist the state in the prosecution of certain offences. These laws created presumptions in the state's favour. The presumptions placed an onus on persons accused of certain offences, which they had to rebut by proof on a balance of probabilities to be acquitted of the charges against them. After 1994 the constitutional court declared a number of such presumptions invalid and unconstitutional.

For example, the Criminal Procedure Act of 1977 provides that a free and voluntary confession by an accused is admissible in evidence against such an accused. Where such a confession is made to a magistrate and reduced to writing, the confession is “presumed, unless the contrary is proved, to have been freely and voluntarily made” by the accused.<sup>61</sup> An accused who made a confession to a magistrate bears the onus of proving that his confession was not made freely and voluntarily. In 1995 the Constitutional Court ruled that such an onus violated the right every accused person has to a fair trial, which includes the right to be presumed innocent, to remain silent and not to testify during the proceedings.<sup>62</sup>

<sup>58</sup> Interview, Mr J. J. Swart, President of the National Union of Prosecutors of South Africa, Pretoria, 7 April 1997; Hansard [NA:Q] 6, 16 April 1998, column 874.

<sup>59</sup> This was partly due to the reincorporation of the former TBVC states into the RSA.

<sup>60</sup> Section 35(3)(h), Constitution of the Republic of South Africa Act no. 108 of 1996.

<sup>61</sup> Section 217(1)(b)(ii), Criminal Procedure Act no. 51 of 1977, as amended.

<sup>62</sup> *S vs Zuma and Others* 1995 (2) SA 642 (CC).

The Constitutional Court's ruling has had a profound effect on the work of the prosecution service. Since the ruling it is common for defence lawyers to argue that their clients' confessions were made under duress. This necessitates the holding of a trial-within-a-trial whereby the prosecution has to prove that any confession before a magistrate was made freely and voluntarily.

In spite of the problems besetting the prosecution service, however, experience has shown that the prosecutors in farm attack cases are generally competent. This is especially so in the more serious cases, which are invariably tried in the High Court, where the prosecutors are usually very experienced and competent state advocates. This was confirmed during interviews with state advocates at the offices of the Directors of Public Prosecutions in Bloemfontein, Cape Town, Kimberley, Pietermaritzburg and Pretoria. Of the more than 50 court cases that the Committee looked at in fairly great detail, there were only two cases where the prosecution should *possibly* have been handled differently.

## THE COURTS

One of the consequences of poor performance levels in the detective and prosecution service, and by the courts, is the increase in the number of unsentenced prisoners. The number of unsentenced prisoners increased from 19,571 in June 1994 to 56,459 in December 2002 – a massive increase of 189%. Over the same period the number of sentenced prisoners increased from 79,987 to 128,655 – an increase of 61%. South Africa's prisons are overcrowded. In December 2002 the country's prisons were holding some 185,000 inmates but had an approved occupancy level of only approximately 110,000.<sup>63</sup>

One reason for the increase in the number of sentenced prisoners is that longer sentences are being handed down by the country's courts. Between January 1995 and May 2002 the number of prisoners serving terms of more than ten years increased by 170%, while those serving more than 20 years increased by 284%. This latter increase is partly due to the fact that a moratorium on the execution of persons sentenced to death was put into place in 1989, and the Constitutional Court ruled the death penalty unconstitutional in 1995. Thereafter existing death sentences were substituted by long terms of imprisonment (usually life imprisonment).

Longer sentences are also a result of rising levels of serious and violent crime, and minimum sentencing legislation which came into effect in May 1998. The Criminal Law Amendment Act, No 105 of 1997, provides for minimum sentences to be imposed on persons convicted of certain offences. Judicial officers may only impose less than the prescribed minima if they are "satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence".<sup>64</sup> Moreover, judicial officers have to justify their decision by placing on record their reasons for imposing a lesser sentence than the prescribed minimum. For example, the Act mandates life imprisonment for persons convicted of murder, where it is planned or premeditated, or it involves rape or robbery with aggravating circumstances. Murder which is not premeditated and aggravated robbery also carry heavy penalties. Persons found guilty of such offences must receive a prison

<sup>63</sup> Criminal Justice Monitor, *Nedbank ISS Crime Index* 5(1) (Institute for Security Studies, Pretoria, 2001) p 3-4.

<sup>64</sup> Section 51(3)(a), Criminal Law Amendment Act no. 105 of 1997.

sentence of 15 years on a first conviction, 20 years on a second, and 25 years on a third or subsequent conviction.

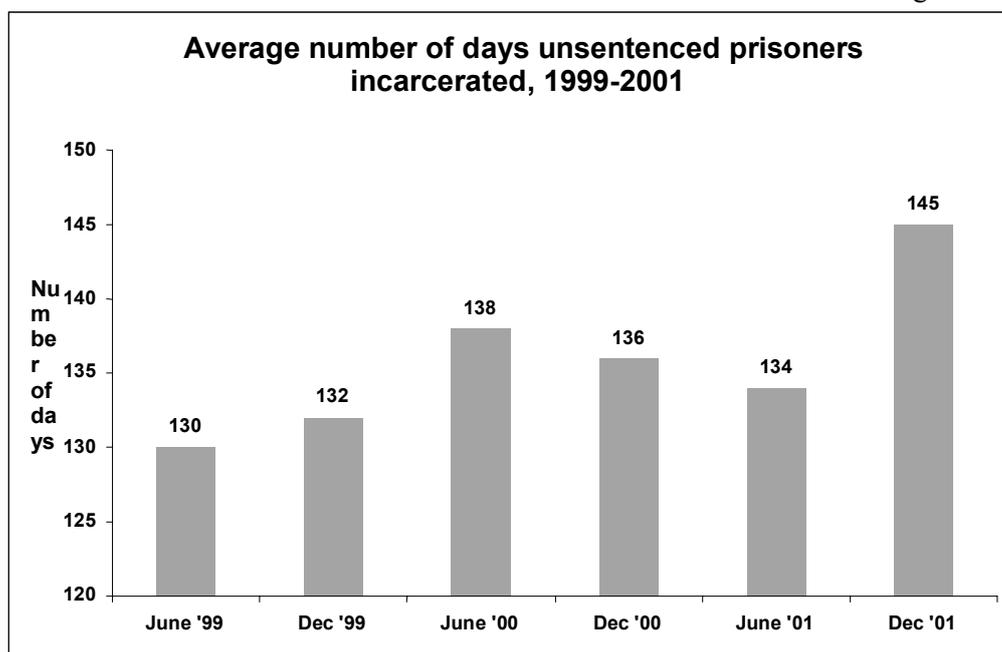
From the available evidence it appears that perpetrators of farm attacks – especially in cases involving serious violent crimes – generally receive long prison sentences.<sup>65</sup> Such cases are usually prosecuted in the High Court, where judges are not restricted in the maximum sentence they decide to impose for common law offences.

## PRISONS

### Detention cycle time

The detention cycle time, or the average length of time unsentenced prisoners remain incarcerated until the finalisation of their trials, rose considerably after 1996. In December 1996 the average unsentenced prisoner spent 77 days in custody. This steadily increased to 145 custody days in December 2001 (Figure 10). This means that, on average, accused persons are imprisoned for four-and-a-half months awaiting the finalisation of their trial. Delays in the processing of cases involving awaiting trial prisoners place a considerable financial burden on the Department of Correctional Services. In late 2001, a prisoner cost the department some R90 a day. Multiplied over an average of 145 custody days this comes to R13,050 per unsentenced prisoner.

Figure 10



Source: Department of Correctional Services

<sup>65</sup> Focus group interviews conducted by Committee members in respect of Western Cape (Paarl, 22 September 2001), Northern Cape (Kimberley, 5 October 2001) and Free State (Welkom, 16 November 2001) investigating officers, and investigating officers of the Empangeni Serious and Violent Crimes Unit (Empangeni, 15 October 2001). Similar observations were also made by Committee members in their discussions with prosecutors and state advocates who had prosecuted farm attack related cases.

There are no official statistics available on the awaiting-trial period for farm attackers. An analysis of the case studies<sup>66</sup> that the Committee undertook, however, indicates that in the 31 cases that actually went to court and where the information is known, the average period between the commission of the offence and the trial is about 23 months. However, in three cases the arrest only followed many years after the commission of the offence because, for example, the accused had to be extradited from a neighbouring country. If those exceptional cases are ignored, the average time lapse between the offence and the trial is about 18 months. In some provinces, e.g. the Free State, some cases were finalised within four or five months, whereas it took much longer in Mpumalanga. Moreover, in many of the case studies, the accused were arrested within days. The proper investigation of such cases normally takes four to six months, which means that an important reason for the long delays in finalising the cases is to be found in the over-crowded court rolls.

It should be born in mind that most of these farm attack cases involved very serious offences and were disposed of in the High Court where, generally, it takes longer for cases to be disposed of than in the regional courts. Generally, the awaiting trial periods for other types of cases in the High Court are as long as for farm attack cases, if not longer.

## CONCLUSION

South Africa's post-1994 transition brought about a restructuring of the criminal justice system, the abolition of a number of laws, policies and operating procedures and the rapid formulation of a plethora of new ones. A range of institutional and other constraints militated against the success envisaged for these interventions and programmes. Chief amongst these was the lack of assessment of the actual requirements for implementation – in short, the gap between the development of new (sometimes very ambitious) policy, and the managerial capacity, skill and resource requirements available for its implementation. This, as well as the increase in the number of cases processed in the South African criminal justice system, has resulted in the operational weakening of a number of criminal justice functions.<sup>67</sup>

A core element of policing in South Africa has been the attempt to shift policing from its prior focus on the management of specific incidents – that is, its reactive focus – towards a more proactive, participatory and preventive approach. For the SAPS this has meant focusing on improving its investigative capacity, particularly its intelligence, detective and other specialised functions, enhancing visible policing and attempting to improve the service provided to victims of crime.<sup>68</sup>

Yet, arguably the SAPS' most glaring weakness – especially in respect of rural safety and farm attacks – is in its intelligence and detection capabilities. Too few farm and smallholding attacks are prevented because the security forces rarely obtain advance warning of such attacks. Moreover, once the perpetrators of an attack have disappeared the detective service frequently lacks the resources and capacity to arrest the culprits.

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<sup>66</sup> See p 95.

<sup>67</sup> See Pelser E., Rauch J. and Henkeman S 'Safety, security and access to justice' in *DFID review*, (Institute for Security Studies, Pretoria, 30 March 2001) p 11.

<sup>68</sup> Pelser E., Louw A. and Ntuli S. *Poor safety: Crime and policing in South Africa's rural areas* (Institute for Security Studies, Pretoria, 2000) p 60.

The proposed sector policing strategy to be adopted in rural areas – and replace the Commando-dominated rural security structures – may be able to overcome some of these problems. With dedicated police officers or police reservists for geographically defined areas, and greater community interaction with sector police personnel, the police will be in a better position to collect crime intelligence and encourage public cooperation in the detection of crime.

However, given the size, geographic isolation and dispersion of many rural areas, a policing strategy based on a consistent visible police presence in the form of sector police personnel will be very difficult to sustain to the point where it succeeds in curbing crime – even those crimes such as farm attacks which can be combated effectively through visible policing.

Thus, if policing in the deep rural areas, for practical reasons, is primarily reactive in nature, then the proactive functions of the SAPS should be structured in the form of support to upgrade the detective and investigative capacities of the rural police stations and the specialised units that operate in the vicinity. Proactive functions at these police stations should focus on enhancing information and intelligence gathering to support the detective functions and guide the operational deployment of station personnel and specialised units. This should be done together with substantial upgrades to the information and intelligence assessment and analysis systems at these stations.

It is a trite point to make, but the SAPS – especially at stations situated in poorer communities and in many rural areas – lacks the resources its personnel need to work effectively. Many police stations work with insufficient and/or old and inadequate equipment such as vehicles, radios and basic information technology equipment, and even handcuffs.

Clearly, more and better resources cost money which is in short supply in a country with many pressing socio-economic needs. It should, however, be possible to allocate existing resources in a more productive way. Inter alia, this could entail: reallocating head office-based police officers to police stations in high crime areas; placing more officers on duty over times when most crimes occur (Friday and Saturday evenings and at months' end); and transferring state vehicles used by officers performing administrative and managerial functions (and which are not used during the course of the day) to stations for direct policing duties. The majority of the almost 3,000 bodyguards who are placed at the disposal of politicians by the police's VIP protection unit should be re-deployed to high-crime areas.

Moreover, to reduce the workload on its staff, the police service should outsource a number of its non-core functions or services to the private sector. The SAPS could put out to tender the provision of a variety of services it currently performs, and set standards for the provision of these services with which private contractors would have to comply.<sup>69</sup> For example, in many rural areas police officers spend long periods of time transporting unsentenced prisoners between their police station, the nearest court and prison (which are often far apart). Private security companies could be contracted to perform such a function thereby relieving the police of this function.

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<sup>69</sup> For a discussion of the benefits to the state of outsourcing its functions see Benson B.L. *To Serve and Protect. Privatization and Community in Criminal Justice* (New York University Press, New York, 1998) p 26-40.

Finally, it needs to be borne in mind that there is a limit to what the police service and the criminal justice system can do to reduce crime. The criminal justice system lacks the influence to deter many perpetrators from committing crimes. Perpetrators tend to be motivated by such feelings as anger, hatred, lust or jealousy (often in the context of alcohol and drug abuse). They are not in a rational frame of mind to weigh up the consequences of their actions. This is not to say, however, that the criminal justice system's role is unimportant. The system plays a crucial role in prosecuting repeat offenders and crack down on organised crime syndicates. The criminal justice system can also play a vital role to reduce some of the facilitators of crime, such as drugs and firearms. The point has been made that much of the country's criminal gang and organised crime problem is linked to the ready availability of drugs – because drug addicts turn to crime of various kinds to finance their drug habits.

In South Africa there appear to be a disproportionately large number of young males who are prepared to use crime, often involving high levels of violence, to satisfy their material desires. Many also engage in wanton violence in a misguided attempt to bolster their masculinity, or to vent their anger and frustration at a society they feel has abandoned them.

Culture of violence theories argue that the effects of apartheid coupled with years of political violence and the continued exposure to violence in the home and in the neighbourhood have produced a destructive culture which manifests itself in what the Nedcor Project on Crime, Violence and Investment calls “murderous intolerance”.<sup>70</sup> It also means that South Africans quickly resort to violence as a means of solving conflicts – whether in the domestic, social or work environment.

As the legitimacy of the South African Government began to decline from the mid-1970s onwards, and opposition to its policies intensified, the distinction between political and criminal behaviour became blurred. Apartheid offences were classified as crimes. The state's security forces committed crimes, and showed disdain for the rule of law, in their zeal to clamp down on the Government's political opponents. And those engaged in ‘the struggle’, particularly from the mid-1980s onwards, justified forms of violence as legitimate weapons against the system. Actions which were violent crimes were often seen and justified by their perpetrators as a legitimate defence against political opponents and enemies. The result was a society in which the use of violence to achieve political and personal aims became widespread.<sup>71</sup>

Crime prevention strategies can only be effective within institutional contexts that are strong enough to support them. This is because ‘families, communities, schools, churches and work contexts discourage crime by creating commitments to conventional life patterns that would be endangered by crime’.<sup>72</sup>

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<sup>70</sup> *Nedcor Project on Crime, Violence and Investment: 1996, Final Report*, The Nedcor Project, Johannesburg.

<sup>71</sup> Shaw M. *Partners in crime? Crime, political transition and changing forms of policing control*, (Centre for Policy Studies, Johannesburg, 1995) p 9.

<sup>72</sup> Emmett T. ‘Addressing the underlying causes of crime and violence in South Africa’ in Emmett T. and Butchart A. (eds), *Behind the mask. Getting to grips with crime and violence in South Africa*, (HSRC publishers, Pretoria, 2000) p 280

The role of informal social control becomes problematic when institutions like the family and community break down and are not able to exert the pressures necessary to uphold the law. Writing in the early 1990s, Mamphela Ramphele analysed the causes and consequences of social disintegration in black communities.<sup>73</sup> Among the symptoms of disintegration she lists the following:

- family breakdowns, with increasing divorce rates, separation, single parenthood and teenage pregnancy;
- breakdown of authority of parents and teachers;
- high unemployment and unemployability rates;
- high alcohol and drug abuse;
- high crime rates and endemic violence at all levels of social interaction; and
- flight of skills and positive role models from the townships into higher-income areas.

To change the widespread culture of violence in South Africa will take time. Crucially, it cannot be done by the criminal justice system alone. Peoples' beliefs and values are at their most mouldable during their childhood and early adolescent years. During this time young people generally have little contact with the police or criminal justice system. Their role models and those who have influence over them are their parents, siblings, extended family members, teachers, religious leaders, friends and other people in their age group with whom they mix on a regular basis. Such role models and age-group peers, and civil society organisations all exert informal social controls, or pressures to conform to the law and socially acceptable behaviour. This places an onus on all law abiding South Africans to play their part in changing the destructive values and attitudes that have been internalised by a large portion of the population.

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<sup>73</sup> Ramphele M. 'Social disintegration in the black community: Implications for transformation' in *Monitor* (1991) p 7-16)

## CHAPTER 14

### COMPARATIVE STUDIES

#### INTRODUCTION

It is alleged by various individuals and groups that farm attacks are unique. It is said that crimes committed during the course of farm attacks differ from other violent crimes in that they are often, and even mostly, politically inspired. The phenomenon is seen as part of an orchestrated campaign to drive the (white) farmers off the land so that the (black) landless people can occupy it. Another perception is that there is a racial undertone to the attacks, which is born out by the fact that farm attacks generally are particularly violent and that the victims are often gratuitously killed or seriously injured.

It would therefore be very useful to compare crimes of farm attacks to other similar types of crimes affecting the physical integrity of the victims. As indicated above, there is no such crime as a farm attack.<sup>1</sup> The greater majority of farm attacks are usually manifestations of the crime of robbery or of housebreaking with intent to rob and robbery, usually with aggravating circumstances. Often it is accompanied by other crimes such as murder or attempted murder, rape, etc. The Committee therefore thought that it might be instructive to compare farm attacks with other types of robbery or housebreaking with intent to rob and robbery and eventually the Committee decided to focus on two types of robberies, viz. cash-in-transit robberies and robberies on residential premises (house robberies) in an urban environment.

#### CASH- IN-TRANSIT ROBBERIES

Cash-in-transit robberies (or CIT's, as they are known in the banking industry) are classic examples of robbery with aggravating circumstances or, as it is commonly known, armed robbery. There are almost always firearms involved and they are reputedly very violent, often resulting in serious injuries and fatalities. CIT robberies are priority crimes: they are reported to NOCOC in the daily crime report. Unfortunately the figures are for operational purposes only and therefore not totally accurate.<sup>2</sup> However, the Banking Council of South Africa also keeps record of CIT robberies, and they are more complete. Although the Council's security desk also emphasizes that their figures are not completely accurate either, they have made them available to the Committee. (See Table 34)

During 2000 there were 906 farm attacks, resulting in 454 injured persons<sup>3</sup> and 144 deaths. Expressed as a percentage of the number of incidents, therefore, there was an injury rate of 50.1% and a death rate of 15.9%. According to the Banking Council there were some 530 incidents of CIT robberies during 2000, resulting in 178 injuries (at a rate of 33.6%) and 25 deaths (at a rate of 4.7%). During 2001 there were 1011 farm attacks resulting in 484

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<sup>1</sup> See p 8.

<sup>2</sup> Interview with Maj L. Moll, 2003-02-06.

<sup>3</sup> This figure is unverified and may be slightly higher.

injuries (47.9%) and 147 deaths (14.5%), while in the 505 incidents of CIT robberies 205 injuries (40.6%) and 30 deaths (5.9%) ensued.

Table 34

<b>Rate of injuries and deaths as a proportion of number of incidents of farm attacks and cash-in-transit robberies: 2000 - 2001</b>						
	2000			2001		
	Incidents	Injury rate	Fatality rate	Incidents	Injury rate	Fatality rate
Farm attacks	906	50.1%*	15.9%	1011	47.9%	14.5%
CIT robberies	530	33.6%	4.7%	505	40.6%	5.9%

\* Unverified figure

During both years the rate of injuries and deaths occurring during farms attacks was therefore noticeably higher than that for CIT robberies, In fact, it is noteworthy that the rate of killings for farm attacks was more than twice as high as for CIT robberies.

If the comparison is made in terms of the number of victims, the difference between farm attacks and CIT robberies is even more pronounced. In the 1011 farm attacks during 2001 there were a total of 1398 victims, with an average of 1.38 victim per incident. Unfortunately there are no statistics available on the exact number of victims involved in cash in transit robberies. According to the head of the Serious and Violent Offences Unit, however, the pattern of CIT robberies is fairly constant.<sup>4</sup> There are usually either two, four or six victims involved in each incident, occupying the armoured vehicle and one or two escort vehicles. It is very seldom that there are fewer than two victims and the average number of victims is estimated to be at least three. One therefore has to assume that in the 375 CIT robbery cases there were at least 1125 victims.

Table 35

<b>Injuries and deaths as a proportion of the number of victims of farm attacks and cash-in-transit robberies: 2001</b>			
	2001		
	Victims	Injuries	Killed
Farm attacks	1398	34.6%	10.5%
CIT robberies	1125	14.5%	3.5%

Calculated in terms of the number of victims involved, of the 1398 victims of farm attacks during 2001 some 484 or 34.6% were injured and 147 or 10.5 % killed. Of the 1125 victims of CIT robberies, some 163 or 14.5% were injured and 39 or 3.5% killed. This means that the chances of a victim of a farm attack being injured was more than twice and of being killed three times as high as for a victim of a CIT robbery. (Unfortunately the total number of victims involved in farm attacks during 2000 is not known and it therefore is not possible to make a comparison for that year. There is no reason to suspect, however, that the pattern would have varied markedly.)

This difference between farm attacks and CIT robberies is startling. It should be born in mind that the victims in CIT robberies are always well armed and well trained. They are

<sup>4</sup> Telephonic interview with Senior Superintendent Louis Bester, 2003-02-03.

never alone; they are often escorted by armed support; and they are always in immediate radio contact with their head-office and the police. They are therefore extremely dangerous targets for robbers and the latter will definitely know that they cannot give their victims any chance whatsoever. One would therefore expect them to be ready to “kill or be killed”. The attackers are also well armed, often with heavy automatic weaponry. The gangs typically are much larger than those involved in farm attacks, usually numbering between three and six members, but not infrequently more than ten.

The question therefore arises why fewer victims are harmed and killed in CIT robberies than in farm attacks, where the victims are often alone and quite helpless. The obvious explanation that comes to mind is that the farm attacker assaults his victim with a political or racial motive, rather than merely to subdue him or her with a view to carrying out the robbery. However, a little thought will show that there may also be other reasons that are not so obvious.

1. The first is that the CIT attacks are invariably extremely well planned – much more so than the average farm attack. The allegation is often made that farm attacks are carried out with “military precision”. In fact that is not so: investigating officer after investigating officer avers that most farm attacks are carried out in a haphazard way, even if it is preceded by reconnaissance and some planning. That is also borne out by the evidence in most of the court cases.
2. TIC robbers are usually either very experienced themselves or else accompanied by experienced associates. They often have previous convictions for similar offences. They often had military training and know how to handle themselves and their weapons in crisis situations. On the other hand, farm attackers are often, though not always, rank amateurs. They are often very young and, in spite of the bravado, they are nervous and afraid. They tend to act irrationally at the slightest provocation. There are many examples of cases where the farm attackers were obviously not acquainted with firearms.
3. TIC robbers are usually gangs operating in large groups. They simply overwhelm their victims, who quickly realise that they have no chance to resist effectively. Farm attackers, on the other hand, usually operate in much smaller groups and even alone. They may feel that they are unable to control the victims and at the same time steal what they have come for.
4. The TIC robbers always have their escape well planned. They have separate get-away vehicles and planned escape routes. They also know that the alarm has already been raised by radio and that killing the victims will not assist them. This is not the case with most farm attackers. They are usually on foot and sometimes rely on the farmer’s vehicle to escape. Because of the relative remoteness of the farm they need time to escape. They also have to disable the victims so that they cannot raise the alarm too quickly. This they may do by seriously harming or killing the victims.
5. The victims of TIC robberies are well trained, not only in protecting themselves, but also on how to handle the situation once they have been overpowered. They know they should not be aggressive or upset the attackers in any way. This training is totally lacking in most farm attack victims, who often put up resistance in a helpless situation. Both investigating officers and state advocates refer to cases where the victims became aggressive and even abusive towards the attackers. (There are also many examples, however, where the victims were totally helpless and submissive, and nevertheless were injured or even killed.)

Finally, it should also be mentioned that cash-in-transit robberies decreased from 530 in 2000 to 503 in 2001. According to the Banking Council the number dropped dramatically to 441 incidents in 2002, although the number of injuries and deaths remained about the same. This decrease may be the result of improved security measures. At the same time it should be noted that the proportion of casualties (injuries and deaths) are increasing, perhaps indicating that CIT robberies are becoming more violent.

## **HOUSE ROBBERIES IN URBAN AREAS**

As is the case with farm attacks, there is no such offence as a house robbery. The term is conveniently used to describe a robbery attack on residential premises. Henceforth it will be used specifically to denote a robbery attack on a house in an urban environment. Like farm attacks, it is usually manifestation of the crime of robbery or of housebreaking with intent to rob and robbery, often with aggravating circumstances. It would therefore be an ideal basis for a comparative study. Unfortunately it has proved to be extremely difficult to obtain the information needed for such a study. The biggest problem was that the necessary information could not simply be extracted by the Crime Information Analysis Centre (CIAC) from their computerised database. The Committee also approached the Serious and Violent Crime Units of SAPS, but they too did not have the information readily available. It turned out that a manual docket analysis of all dockets relating to such crimes would be required for such a study, which would be extremely time-consuming.

Late in 2002, however, Sen. Supt. L. Watermeyer from the national CIAC office led a research study into house robberies for completely another purpose. They examined almost a thousand case dockets of house robberies in all nine provinces and extracted the necessary information. This entailed, firstly, drawing up a list of cases of house robberies from the computerised Crime Administration System (CAS), and then physically perusing those dockets and extracting the required information from them.

They encountered two serious problems. Firstly, it would have been too disruptive if the CIAC researchers were to take dockets away for perusal where the cases were still under investigation or where the court process had not been completed. This meant that only dockets that had been closed, e.g. because the court case had been finalised or it had not been possible to trace the accused, could be used in the research. It was therefore decided by CIAC to limit the research to case dockets which had been finalised during the course of 2001.

The second and equally serious problem was that, although ideally all crimes committed during an incident for which a case docket is opened should be registered on the CAS, in practice very often only the main or most serious offence is registered. This means, for example, that when a murder or a rape is committed during the course of a house robbery, the incident would be registered as murder or rape only, without referring to the robbery.

The field team took statistically random samples of various sizes, depending on the total number of cases in the particular province. The total number of dockets analysed came to 918. However, the statistics gathered were not quite in the format that the Committee needed to make a valid comparison with farm attacks, because the dockets included many

cases of house robberies that had occurred on farms (i.e. farm attacks). At the request of the Committee the CIAC office agreed to recalculate all the statistics so as to distinguish between farms and urban areas, based on the specific location of the house in question. (See Table 36.) This they did in respect of the Eastern Cape, Free State, Limpopo, Mpumalanga and North West Province. Some 351 dockets from those five provinces were analysed and the Committee wishes to express its appreciation for that.

Table 36

<b>House robberies on farms and urban areas</b>					
	Total house robberies	Size of sample	Urban house robberies	Farm house robberies	Farms as percentage
Eastern Cape	70	50%	66	4	5.7%
Free State	95	100%	86	9	9.5%
Gauteng	211	10%	196	15	7.1%
KwaZulu Natal	179	10%	166	13	7.3%
Limpopo	82	100%	66	16	19.5%
Mpumalanga	90	50%	67	23	25.6%
North West	95	100%	66	29	30.5%
Western Cape	90	30%	85	5	5.6%
Northern Cape	6	100%	6	0	0.0%
Total	918		804	114	12.4%

CIAC made its first report – covering the Eastern Cape Province – available to the Committee at the end of 2002. The analysis covered some 66 dockets. Of those 80.3% dated from either the year 2000 or 2001, while the others were a few years older. Of the 66 cases 66.7% emanated from townships (with presumably mainly black residents), 19.7% from suburbs and other residential areas (presumably with mainly white residents) and 13.6% from informal settlements (presumably with mainly black residents).

The Committee itself then analysed farm attacks in the Eastern Cape to extract cases suitable for a comparative study, because obviously the Committee could consider only farm attacks where the conditions were similar to those obtaining in the house robberies. It would have been impossible for the Committee to peruse all the farm attack dockets physically. It therefore decided to make use of the NOCOC database which, for reasons set out above<sup>5</sup>, may contain some inaccuracies. By co-incidence, however, the provincial office of CIAC in the Eastern Cape had a very detailed record of all farm attacks dating from 1994, and much of the information used in this study has been verified directly with that office. The Committee also had access to a memorandum compiled by Supt. V. Nel and Capt. J. Olivier with some comparative figures for farm attacks during 1999, 2000 and 2001.

In the light of what was said above, therefore, the following adjustments had to be made:

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<sup>5</sup> See p 18.

1. Because eighty percent of the finalised dockets of house robberies looked at dated from 2000 and 2001, the Committee decided to use only cases of farm attacks which had occurred during the same two years.
2. Because cases where murder or rape had been committed during the course of the house robbery were not included in the survey, all farm attacks where persons had been killed or raped were also excluded. (In reality 24 persons were murdered in farm attacks during 2000 and 2001, while only one was raped.) However, the house robberies investigated did include one case of attempted rape, and the farm attacks used for this comparison included two cases of attempted rape.
3. Farm attacks where the culprit had not entered the house or attempted to do so, e.g. where a resident on a farm had been assaulted or robbed in the veld or away from his or her home, were ignored. Because the house robberies did not cover robberies at businesses, attacks on farm stalls and farm shops were also excluded, even if in the immediate vicinity of the homestead on the farm.

After taking the above into consideration, of the approximately 147 cases of farm attacks that occurred in the Eastern Cape during 2000 and 2001, only some 91 remained which could be used in the comparative study with house robberies. Nevertheless, the Committee believes that the sample is statistically suitable in terms of size and type for a valid comparison. There are certain minor variables which will be pointed out when the specific criteria for comparison are discussed below.

It is a pity that the Committee has not had enough time to analyse farm attacks in some of the other provinces as well. At the request of the Committee, however, CIAC agreed to make a comparative study between house robberies on farms and those in urban areas based on the data they had collected in their docket analysis. This study was limited to the four provinces with the highest proportion of house robberies on farms, viz. Free State, Limpopo, Mpumalanga and North West (See table ??.), and the Eastern Cape was excluded because CIAC's sample only included four dockets emanating from the farms.) Those provinces accounted for a total of 362 cases, of which 21.3% came from farms. The results of the study were made available to the Committee late in February 2003.

Although the statistics for the farm attacks in the four provinces are included in the discussion below, the Committee has some reservations about the validity of the data. The reason for this is the relatively small sample of house robberies on farms (i.e. farm attacks) in some provinces. This state of affairs was not the fault of CIAC, because they had to work with the information on the Crime Administration System. The problem was probably the result of cases being registered incorrectly on the CAS, but unfortunately the Committee did not have enough time to investigate this matter further. The result is that, although the Committee is fairly confident about the comparative figures for the Eastern Cape, it is not quite satisfied with the comparative figures for farm attacks in the other four provinces, and they should be considered with this proviso in mind.

The criteria used in this comparative study are the following:

- The time of day that the attack occurred.
- The place of first contact between attacker and victim.
- The method used by the attacker to approach the victim.
- The method of entry into the house.
- The weapons that were used by the attacker.

- Whether the victim was injured.
- Whether the victim was tied up.
- The items stolen.
- The race of the victim.
- The age of the victim.
- The number of attackers.
- The race of the attacker.
- The personal particulars of the attacker.
- How the case was finalised.

Note that in a few of the farm attacks as well as the house robbery cases some of the information needed for the comparisons is not known. Those cases are ignored and the percentages are calculated on the remaining cases only. Since direct comparisons cannot be made, it will serve no purpose to give the actual figures and the ratios are rather expressed as percentages.

### Time of the attack

Research done elsewhere indicates that the days of the week on which farm attacks are likely to occur are quite unpredictable.<sup>6</sup> (There is a slight increase on Fridays, possibly because it the usual day for the payment of wages.) The research into house robberies has revealed exactly the same random pattern. Similarly, as far as the month of the year is concerned both farm attacks and house robberies have a fairly even and similar distribution throughout the year.<sup>7</sup> It would therefore serve no purpose to try and draw any comparisons in this regard.

Table 37

<b>Time of the attack indicated in percentages</b>						
	00:00 to 03:59	04:00 to 07:59	08:00 to 11:59	12:00 to 15:59	16:00 to 19:59	20:00 to 23:59
Farm attacks Eastern Cape	13.2%	12.1%	27.5%	13.2%	9.9%	24.2%
House robberies Eastern Cape	29.2%	9.2%	7.7%	6.2%	15.4%	32.3%
Farm attacks Four provinces	10.5%	5.3%	15.8%	17.1%	23.7%	27.6%
House robberies Four provinces	25.7%	4.9%	12.7%	7.0%	13.4%	36.3%

However, this comparative study reveals a significant difference between the time of day on which the farm attacks and house robberies mostly occurred, especially in the Eastern Cape. (See Table 37.) For the purposes of this comparison the day is divided into periods of four hours each, starting at midnight. The periods during which the farm attacks in the Eastern Cape were most likely to occur were in the mornings between 08:00 and 11:59 (29.0%) and evenings between 20:00 and 23:59 (23.6%). The periods during which most house robberies were committed were in the evenings between 20:00 and 23:59 (32.3%)

<sup>6</sup> See p 29.

<sup>7</sup> See p 28.

and at night between 00:00 and 03:59 (29.2%). This difference is not quite as pronounced in the case of the other four provinces.

One would have liked to compare specifically the percentage of farm attacks and house robberies which occurred during the day and at night, but unfortunately the times used in the study of house robberies do not make that possible. The nearest approximation that can be used is the period from 08:00 to 19:59 for daytime and from 20:00 to 07:59 for the dark hours. This shows that, in the Eastern Cape, whereas some 50.5% of farm attacks were carried out between 08:00 and 19:59, only 29.2% of house robberies took place during those hours. In the other four provinces, fully 54.6% of the farm attacks occurred during the 'day', as opposed to only 33.1% of the house robberies.

Table 38

<b>Attacks during the day and night</b>		
	08:00 – 19:59	20:00 - 07:59
Farm attacks: Eastern Cape	50.5%	49.5%
House robberies: Eastern Cape	29.3%	70.7%
Farm attacks: Four other provinces	54.6%	45.4%
House robberies: Four provinces	33.1%	66.9%

Fully half of the farm attacks therefore took place during the 'day', whereas two thirds of the house robberies occurred at 'night'. This difference in the likely time of the attack may be due to the fact that in an urban setting an attack at night is less likely to draw attention from outsiders. Furthermore, during the day many of the security measures introduced by farmers are disabled: the alarm systems are switched off, the doors and security gates remain unlocked, etc. It does suggest, however, that farm residents and employees should not be less on their guard during daylight hours at all.

### **Place of first contact between attacker and victim**

Obviously only cases where the attacker entered or attempted to enter the house were taken into account. Where the first contact between the attacker and the victim took place inside the house, that would typically have been where the perpetrator gained entry by breaking in or by means of a door or window left open or unlocked. Where the victim was confronted outside the house, he or she would typically have been forced at gunpoint or otherwise to take the robber inside to enable him to ransack the house, or the would-be attacker would have been allowed inside on some pretext.

In 47.3% of the 91 farm attacks in the Eastern Cape this initial contact took place outside the home, while only 22.7% of the 66 house robberies started outside. There is therefore a significant difference between the two in this respect. This may be due to various factors, e.g. the fact that it is not as easy in an urban environment to carry out a robbery outside in the yard where neighbours and other persons may notice it. The farm attacker may also regard the security systems protecting the farmhouse as too formidable, whereas in the less well-to-do black communities this may not present the same problems. The farm attacker may also be uncertain about the type and degree of resistance he may encounter inside the house and may prefer to meet the victim out in the open. (See Table 39.)

Table 39

<b>Place of first contact between attacker and victim</b>		
	Inside house	Outside house
Farm attacks: Eastern Cape	52.7%	47.3%
House robberies: Eastern Cape	77.2%	22.7%
Farm attacks: Four other provinces	68.8%	31.2%
House robberies: Four provinces	72.0%	28.0%

In the other four provinces, however, this difference is not nearly as pronounced: 68.8% of the farm attacks commenced inside the house, as did 72% of the house robberies. This discrepancy is not easy to explain. There is reason to believe that the Eastern Cape figures are not far off the mark. In the recent study by the Eastern Cape office of CIAC, it was found that of all farm attacks during 1999 (including murder, rape and other types of cases not taken into account in this comparison) some 49.3% commenced outside the house or building, and in 2000 some 47.9%.<sup>8</sup> This correlates very accurately with the figures given above for the 91 cases. Furthermore, according to the provisional figures for all the farm attacks in the country for the year 2001 supplied to the Committee by CIAC, 49.2% started outside.

Be that as it may, it is clear that a farm resident is almost as likely to be attacked outside the house as inside. This is very significant when safety measures are considered.

#### **Method of approach used by the attacker**

In most cases, both in farm attacks and house robberies, the victim was surprised and overpowered by the attacker, either outside or inside the house. In some cases the attacker approached the victim on some pretext, i.e. pretended to be an innocent outsider. In the case of the farm attacks that would typically have been someone who pretended to want to buy milk, sheep or some other farm produce. In the case of house robberies it would typically have been someone knocking on the door posing as a person in authority such as a policeman, or pretending to be looking for someone.

Table 40

<b>Method used by attacker to approach victim</b>		
	Surprise	Pretext
Farm attacks: Eastern Cape	86.8%	13.2%
House robberies: Eastern Cape	78.8%	21.2%
Farm attacks: Four other provinces	81.8%	18.2%
House robberies: Four provinces	86.1%	13.9%

The analysis is shown in Table 40. In the Eastern Cape a noticeably greater percentage of attackers, viz. 21.2%, used some pretext as a method of approach for house robberies than was the case with farm attacks, where this percentage was 13.2%. On the other hand, the

<sup>8</sup> See Crime Information Analysis Centre *Attacks on the farming community: Eastern Cape Perspective 1994-2001* (compiled by Supt V. Nel and Capt J. Olivier, 2001) p 9.

average percentages for the four other provinces show a different pattern: in 18.2% of the farm attacks some pretext is used to enable the perpetrator to approach the victim, whereas only 13.9% of the house robbers made use of a ruse. Again, this discrepancy is difficult to explain.

### Method of entry into house

Entry to the house by the attacker can be by physically breaking in, by gaining entry through an open or unlocked door or window, by forcing the occupant to allow him inside, or by being allowed in freely by the occupant. (It should be noted that in law it is housebreaking where a closed door or window is opened to gain entry, even if it was not locked, but this is ignored for the purposes of this study.)

Table 41

Method of entry used by attacker					
	Breaking in	Unobstructed entry	Let in under duress	Let in freely by victim	Entry not gained
Farm attacks Eastern Cape	27.5%	25.3%	36.3%	1.1%	9.9%
House robberies Eastern Cape	42.8%	15.9%	11.1%	20.6%	9.5%
Farm attacks Four provinces	34.8%	20.3%	27.5%	15.9%	1.4%
House robberies Four provinces	28.0%	25.7%	19.8%	17.8%	8.3%

In the Eastern Cape farm attacks considered, the house was broken into in 27.5 % of the cases, in 25.3% of the cases the attackers entered through open or unlocked doors or windows, and in 36.3% of the cases the attackers forced the victims to let them in. In only one instance did the occupant freely allow the attackers inside on some pretext. In quite a few cases, however, the attacker knocked on the door and then forced his way in once the door was opened. In 9.9% of the cases the attackers did not gain entry to the house, e.g. because they were repelled by the victims. (See Table 41.)

For the Eastern Cape house robberies the mode of entry in three cases is not known. Of the remainder there was a break-in in 42.8% and unobstructed entry in 15.9% of the cases. In only 11.1% of the cases the attacker(s) forced the victim to allow them inside, while in no less than 20.6% of the cases the culprit was allowed inside on some pretext and with the consent of the occupier. In 9.5% of the cases the attacker did not gain entry to the house, a figure similar to that of the farm attacks.

The much greater percentage of victims forced to let the attacker inside during farm attacks as opposed to house robberies, again is not easy to explain. It correlates with the figures for the place of first contact and, as indicated above, the opportunities for some ruse are greater in an urban setting than on a farm. It may also be that racial or class prejudice makes it unlikely that a farm attacker (mostly black, unemployed and uneducated) will be allowed inside the farmstead of a perhaps conservative white farmer.

In the other four provinces this difference is not as pronounced. Nevertheless, 27.5% of the farm attack victims let the perpetrator in under duress, whereas 19.8% of the house robbers forced the victim to let them inside.

### **Weapons used by the attacker**

In the 91 Eastern Cape farm attacks firearms were used on 45 occasions (49.5%). (See Table 42) In 54 or 59.3% of the attacks knives or other types of weapons were used. (This means that in 8 cases firearms were used in conjunction with other weapons.) This is surprising, especially in the light of the perception that most farm attacks are military style operations and are carried out by means of firearms.

Equally surprising is the fact that in the 66 cases of house robberies firearms were used 63 times or in 95.5% of the cases, while in 14 cases (20%) other weapons were used. (On 11 occasions, therefore, both were used in conjunction.) It is interesting to note that only three of the farm attack victims were actually shot, although on several occasions shots were fired at victims but missed. Only one of the house robbery victims was shot, although it is not known whether shots were also fired which did not wound anyone.

Table 42

<b>Weapons used by attacker</b>		
	Firearms used	Other weapons
Farm attacks: Eastern Cape	49.4%	59.3%
House robberies: Eastern Cape	95.5%	18.2%
Farm attacks: Four provinces	94.8%	67.5%
House robberies: Four provinces	96.8%	24.1%

The position with the farm attacks in the other four provinces is quite different: in no fewer than 94.8% of the cases were firearms used. For house robberies the figure is the same as in the Eastern Cape. This enormous difference between the Eastern Cape and the other four provinces is very difficult to explain.

### **Victims injured**

As indicated above, all cases where someone was killed are ignored in this comparative study, even if there were other victims in the same attack who were not injured or only sustained injuries. This is somewhat unsatisfactory, because when the attacker is prepared to kill one victim, he will certainly also be prepared to use serious violence against the others. In fact, it is often found during farm attacks that, when one of the victims is killed, the other victim or victims may be seriously injured. One has to assume, however, that the same applies to house robberies.

There were 143 victims in the 91 cases of farm attacks under consideration. Of those 29.4% were injured. (According to the provisional figures for 2001 released by the CIAC, 2003, of the 1398 victims of all farm attacks countrywide, some 484 (34.6%) were injured. The injury rate in the Eastern Cape cases therefore is somewhat lower than the national average.)

There were 80 victims in the 66 cases of house robberies investigated. The fate of only 75 victims is known, however, and of those 16% were injured. (See Table 43.)

Table 43

<b>Victims injured</b>		
	Victims injured	Not injured
Farm attacks: Eastern Cape	29.4%	70.6%
House robberies: Eastern Cape	16.0%	84.0%
Farm attacks: Four provinces	19.4%	80.6%
House robberies: Four provinces	11.5%	88.5%

In the other four provinces 19.4% of the 124 victims of farm attacks were injured. There were 377 victims of house robberies, and of the 340 victims whose fate is known, 11.5% were injured.

It is clear from the above that a victim was almost twice as likely to suffer injuries during a farm attack in the Eastern Cape than during a house robbery. (One is justified in ignoring the five house robberies where the fate of the victims is unknown, since it is more likely that it would have been noted if they had been injured, rather than the other way round.) In the other four provinces there was also a significantly greater chance of victims of farm attacks being injured.

It is also possible to compare the type of violence used in terms of the injuries inflicted. (See Table 44.)

Table 44

<b>Nature of injuries suffered by victims</b>							
	Shot wounds	Stab/cut wounds	Lacerated wounds	Bone fractures	Bruises	Strangulation	Other
Farm attacks Eastern Cape	2.1%	8.4%	3.5%	2.1%	17.5%	1.4%	0.0%
House robberies Eastern Cape	1.3%	4.0%	6.7%	2.7%	6.7%	0.0%	0.0%
Farm attacks Four provinces	2.4%	2.4%	5.6%	0.0%	13.7%	0.0%	0.0%
House robberies Four provinces	2.1%	0.9%	1.2%	0.3%	6.8%	0.0%	0.9%

Note: There are more injuries than victims because a single victim might have been injured in more than one way.

The comparisons for both the Eastern Cape and the other four provinces indicate that the type of violence used by the attacker proportionally does not vary significantly, except that a greater proportion of farm attack victims sustained bruises, which by nature are a less serious type of injury. This may well be attributable to the relatively large number of elderly farm residents being attacked, who may bruise easily. On the other hand, two of the farm victims were strangled, one of whom actually lost consciousness, a fate which befell none of the house robbery victims.

In terms of the likelihood of being injured, therefore, though not in terms of the severity of the injuries, the conclusion that farm attacks are more violent than house robberies seems to be justified.

### **Victims tied up**

It is doubtful whether the information concerning victims being tied up during the course of farm attacks is very reliable, because the Committee mostly had to rely on the cryptic information on the NOCOC database, which does not always indicate whether the victims were tied up or not. In the case of house robberies the information may be more accurate, since the individual police dockets were perused.

If anything, therefore, it has to be assumed that the number of victims tied up during farm attacks may be more than indicated. Nevertheless, it seems that of the 143 victims in the farm attacks in the Eastern Cape at least 32.2% were tied up, whereas in the case of the 80 victims in house robberies, only 3.8% were tied up. (See Table 45)

Table 45

<b>Victims tied up</b>		
	Tied up	Not tied up
Farm attacks: Eastern Cape	32.2%	77.7%
House robberies: Eastern Cape	3.8%	96.2%
Farm attacks: Four other provinces	25.8%	74.2%
House robberies: Four other provinces	8.3%	91.7%

This pattern repeated itself in the other four provinces: About 25.8% of the farm attack victims were bound, while only 8.3% of the victims of house robberies in the other four provinces were tied up.

This phenomenon is difficult to explain. It may be due to the fact that during a farm attack the culprits need more time to escape than is the case with house robberies in an urban environment, where the culprits can make a getaway more easily. It may also be part of the intimidation process because of the feeling of helplessness that being tied up creates. Case studies have shown that very often victims are assaulted after they have been tied up, e.g. to reveal the whereabouts of money or firearms.

It should be noted that, apart from victims of farm attacks being tied up, quite a substantial number were locked up in a room while the house was being ransacked. Although there are one or two examples where the victims managed to escape, this was usually impossible because of burglar bars in front of the windows. (Obviously the attacker would not have locked up the victim in a room without burglar bars.) It is not known whether the same happened during the house robberies.

### **Items stolen**

During the 91 farm attacks in the Eastern Cape some 63 firearms were stolen in 31 of the cases (34.1%). Usually the farmer only has one or two weapons, but on one occasion six firearms were taken and on another occasion five. Some security guards were also robbed of

their firearms. During a farm attack the assailants would usually demand to be given weapons and money and for the safe to be opened. (In one remarkable case the one attacker also wanted to take the firearms in the safe, but he was prevented by his accomplice, who reminded him of the fact that they had come specifically to rob money.) During the 70 house robberies firearms were stolen on only 4 occasions (6.1%). (It is unknown how many firearms were taken.) Many more firearms were therefore stolen during the course of farm attacks than was the case with house robberies. The explanation probably is that in an urban setting there are fewer firearms, especially amongst the less well-to-do and black communities. In the other four provinces fewer firearms were stolen on the farms, but still many more than during the house robberies. (See Table 46.)

Table 46

Items stolen as a percentage of cases				
	Firearms	Vehicles	Money	Other
Farm attacks: Eastern Cape	34.15%	11.0%	36.3%	61.5%
House robberies: Eastern Cape	6.1%	3.0%	66.7%	?
Farm attacks: Four other provinces	22.1%	31.2%	45.5%	?
House robberies: Four provinces	3.2%	6.7%	61.1%	?

Vehicles were stolen in 10 (11%) of the farm attacks in the Eastern Cape, while the figure for house robberies is 3%. In the farm attacks some of the vehicles were used to get away, and were later found abandoned. (It is interesting to note that of the 29 vehicles stolen during all farm attacks in the Eastern Cape in 1999 and 2000, no fewer than 25 were recovered.) In a few cases the attackers could not drive and crashed the vehicles. In the other four provinces vehicles were stolen in 31.2% of the farm attacks.

In the case of house robberies, both in the Eastern Cape and the other four provinces, money was stolen in two thirds of the cases, while this was a less important target during the farm attacks.

In 61.5% of the farm attacks in the Eastern Cape other items in general were also stolen. Cellular telephones and jewelry were especially sought after. In the majority of house robberies items such as cellular phones, jewelry, clothing, radios, etc., were also stolen, but the available figures do not allow percentages to be calculated.

Finally, it should be noted that in no fewer than 18.7% of the farm attacks in the Eastern Cape, nothing at all was stolen. At first sight this would tend to confirm the view that the attacks were carried out with other motives than robbery. Upon analysis, however, it turned out that there was a rational explanation: in almost all these cases the attacker or attackers were thwarted by the victims who resisted or by some other intervention. (Three attackers were actually killed. Two were shot dead and one was fatally stabbed by the wife of the farmer with whom he was engaged in a life and death struggle. In one case the victims, two domestic workers who were bound, say that the attackers were specifically looking for weapons, and when they could not find any they simply left.)

Unfortunately, this calculation could not be made for farm attacks in the other four provinces or for the house robberies, whether in the Eastern Cape or elsewhere, because the information was not available.

### Race of the victims

In the Eastern Cape farm attacks 69.9% of the victims were white, 25.9% were black and 4.2% were coloured. There were no Asian victims. Thirty nine of the 43 black or coloured victims of farm attacks were attacked while on duty as employees of the farmer, such as domestic workers, farm hands or security guards. For house robberies in the Eastern Cape the position is reversed: 76.3% were black, 18.8% were coloured or Asian and only 5.0% were white. No doubt this difference is largely due to the fact that 80.3% of the house robberies investigated took place in townships or informal settlements, which are inhabited almost exclusively by black people. (Table 47)

Table 47

Race of victims				
	Black	Coloured	Asian	White
Farm attacks: Eastern Cape	25.7%	4.2%	0.0%	70.1%
House robberies: Eastern Cape	76.3%	18.8%	0.0%	5.0%
Farm attacks: Four provinces	47.6%	0.8%	0.0%	51.6%
House robberies: Four provinces	80.3%	1.3%	5.9%	12.5%

The racial composition of the victims of farm attacks in the other four provinces differ considerably, however: no fewer than 47.6% of the victims are given as black, with only 51.6% being white. It is difficult to explain this difference. For farm attacks in general, committed during 2001, the provisional figures of CIAC indicate that of the 1398 victims 61.6% of the victims were white, 33.3% black, 0.7% coloured and Asians 4.4%. (Almost all the coloured victims came from the Eastern Cape.) If one looks only at the four provinces in question, in all types of farm attacks 54.5% of the victims in Limpopo were black, 47.6% in Mpumalanga, 28.2% in the Free State and 24.8% in North West Province. This, however, can only partly explain the higher proportion of black victims in the four provinces. Another probable reason may be that some house robberies on farms may not have been registered as farm attacks, for various reasons.

It should be noted, however, that of the 100 white victims in farm attacks, 42% were injured, whereas of the 43 black or coloured farm attack victims, only one (2.3%) was actually injured. (The one black man injured was the farm manager.) On the other hand, about the same proportion were tied up: 14 (32.6%) of the black or coloured victims as against 34 (33.7%) of the white victims. The typical situation in farm attacks would be for the domestic workers (usually black or coloured) to be overpowered and tied up while the owner is absent. The attackers would then ransack the house. Sometimes they would wait for the return of the (usually white) owner, who would then be assaulted, perhaps to open the safe under some duress.

The comparison therefore indicates that a white victim was far more likely to be injured during a farm attack in the Eastern Cape than a black employee or other resident on the farm. (This does not mean that black people are not the victims of violent crimes on the farms. Research, and the experience of most investigating officers and prosecutors, have shown that in general black farm residents are far more likely to suffer harm as a result of violent crimes than whites. Those are mostly crimes that fall within the definition of social fabric crimes, however. This would typically be cases where persons get stabbed during a drunken brawl. Women and young girls are often the victims of domestic violence or rape.)

### Age of victims

In the case of the farm attacks in the Eastern Cape the ages of some 139 victims are known. Of those 3.6% were under 20 years of age, 30.2% were between 20 and 39 years, 19.4% were between 40 and 59 years, 39.6% were between 60 and 79 years and 7.2% were 80 or older. Persons of 60 and over therefore make up almost half of the victims (46.8%). (See Table 48.)

Table 48

Age groups of victims					
	0 – 19	20 – 39	40 – 59	60 – 79	80 +
Farm attacks: Eastern Cape	3.6%	30.2%	19.4	39.6	7.2
House robberies: Eastern Cape	9.5%	54.0%	31.1	5.4	0
Farm attacks: Four provinces	9.7%	34.0%	35.9%	19.4%	1.0%
House robberies: Four provinces	6.2%	62.4%	24.1%	6.8%	0.6%

In the case of house robberies there is a very big shift towards younger victims. Most (54%) were between 20 and 39, and only 5.4% were 60 and over. In the other four provinces the average ages of the farm attack victims are slightly lower, but the difference between them and house robbery victims is equally so pronounced.

It is therefore clear that the victims of the farm attacks tended to be much older than the victims of the house robberies. There may be several reasons for this huge difference. One may be that the average life expectancy for white persons (the majority of farm attack victims) is longer than for black people, who make up the majority of victims of house robberies in an urban setting. Another reason is that farm attackers tend to search out aged victims from whom less alertness and resistance may be expected. (It should be mentioned, however, that one of the black farm attack victims was 70 years of age, while one coloured victim was 85, but those were exceptions.)

### Number of attackers

At least 234 perpetrators were involved in the 91 Eastern Cape farm attacks. The precise figure is not known but is likely to be more because all the attackers are not always observed by the victims. The average number of attackers per case therefore were at least 2.6. There was one attacker in only fourteen cases, and the largest number involved in any single attack were nine.

Table 49

Number of attackers	
	Average
Farm attacks: Eastern Cape	2.6
House robberies: Eastern Cape	2.6
Farm attacks: Four other provinces	2.8
House robberies: Four other provinces	2.4

At least 174 perpetrators were involved in 66 house robberies in the Eastern Cape, at an average of also 2.6 per case. In some cases the exact number is also unknown, so the figure

is also likely to be more. In ten cases there was only one perpetrator, and the largest number involved in a single case were ten. (See Table 49.)

The perpetrators in the house robberies investigated in the other four provinces averaged 2.4 per case. The farm attackers averaged 2.8 per incident.

The number of attackers are therefore more or less the same in all instances, the typical group numbering two or three.

### **Race and gender of the offenders**

Both in the case of farm attacks as well as house robberies in the Eastern Cape the perpetrators were either black or, in a few instances, coloured. There were no whites or Asians involved. There were 2 white and 3 coloured perpetrators involved in the house robberies investigated in the other four provinces. There were four whites involved in the house robberies on the farms in the other four provinces. (See Table 50)

One female was possibly involved in one of the farm attacks in the Eastern Cape. (She was part of a group that went to the farm under pretext of wanting to buy cattle, but did not take part in the robbery itself.) In the other four provinces there were two females involved. As for house robberies, only male perpetrators were noticed. The gender of a few is unknown, but it is reasonable to assume that they were probably all male. In the other four provinces, however, there were 7 female perpetrators.

Table 50

<b>Race and gender of perpetrators</b>					
	Black	Coloured	White	Male	Female
Farm attacks: Eastern Cape	?	?	0.0%	100%	0.0%
House robberies: Eastern Cape	86.5%	13.5%	0.0%	100%	0.0%
Farm attacks: Four provinces	96.5%	1.5%	2.0%	99.0%	1.0%
House robberies: Four provinces	99.2%	0.5%	0.3%	99.0%	1.0%

### **Personal particulars of the offenders**

Because such a large number of house robberies remain unsolved, the personal particulars of most of the offenders, other than their gender and race, are largely unknown. This applies to their ages, levels of education and occupations. (See Table 51)

Table 51

<b>Ages of perpetrators</b>				
	10-19	20-29	30-39	40 +
Farm attacks: Eastern Cape	?	?	?	?
House robberies: Eastern Cape	37.0%	55.6%	7.4%	0.0%
Farm attacks: Four provinces	7.4%	48.5%	42.6%	1.5%
House robberies: Four provinces	25.6%	56.5%	14.9%	3.0%

Of the 174 house robbers in the Eastern Cape, particulars of only about 27 are known. Ten of them were between 15 and 19 years of age, 15 were between 20 and 29, and 2 were between 30 and 39. Because of the relatively small sample, the proportions calculated for for each age group may not be very accurate.

Two had never attended school and only one had matriculated. All of them, except for one student, were unemployed. In the other four provinces most offenders also seem to be between 20 and 30 years of age and most of them were also unemployed.

Although farm attack cases have a much higher arrest rate, the database that the Committee used did not have the particulars of the offenders readily available. However, the Committee has made a study of the typical personal profile of farm attackers in general and it is clear that there is a remarkable correlation with the profile of house robbers described above.<sup>9</sup>

### Disposal of cases

The NOCOC database for farm attacks does not have sufficient information on the success rate for solving and prosecuting farm attacks, because follow-up information on later developments is not always added to the database. It is generally accepted, however, that the success rate for finding the criminals in farm attack is relatively high.<sup>10</sup> CIAC office in the Eastern Cape undertook a survey of the results of 142 case dockets opened for farm attacks in 1999 and 2000. Of those 77 cases had been disposed of, with the following results: 53.2% had gone undetected or had been withdrawn, in 42.9% of the cases there had been a conviction and 3.9% had resulted in an acquittal. (See Table 52.)

Table52

<b>Docket disposal as a percentage</b>			
	Undetected or withdrawn	Resulting in a conviction	Resulting in an acquittal
Farm attacks: Eastern Cape*	53.2%	42.9%	3.9%
House robberies: Eastern Cape	92.4%	6.1%	1.5%
Farm attacks: Four provinces	77.3%	17.3%	5.3%
House robberies: Four provinces	88.3%	7.1%	4.6%

\*1999-2000

The success rate for solving the house robberies in the Eastern Cape, however, was very low. Of the 66 cases some 92.4% went undetected or were later withdrawn because of lack of evidence. Only 6.1% of the cases were successfully prosecuted, while 1.5% resulted in an acquittal.

In the other four provinces, the success rate for house robberies is about the same as for the Eastern Cape. Farm attack prosecutions, however, are in a much worse position, with no fewer than 77.3% of the cases not being prosecuted at all. Only 17.3% resulted in a conviction.

<sup>9</sup> See p 153

<sup>10</sup> See p 176

The figures for disposing of house robbery dockets are simply appalling, with 92.4% of the cases never even brought to trial. It can be accepted that more serious cases, where murder or rape is involved, will receive greater priority and that the success rate may be higher. In comparison farm attack cases are much more likely to end up in court, with a good conviction rate.

## CHAPTER 15

### LEGISLATION ON LAND AND LAND REFORM

#### INTRODUCTION

It is clear from some of the literature reviewed, and also some of the submissions received by the Committee that the government's land reform policy and the illegal invasions of commercial farmland are viewed as salient factors in violence against farmers. For example, Prof N.J. Moolman<sup>1</sup> avers that the struggle over land manifests itself in farm attacks, as do the authors of the Action: Stop Farm Attacks memorandum<sup>2</sup>, who find a correlation between the numbers of farm attacks and numbers of rural land claims in specific regions. Philip du Toit<sup>3</sup> warns of potential adverse economic consequences of the reform policy, and suggests that acts governing this process may not meet constitutional criteria. It is also apparent from research on relationships between farmers and workers<sup>4</sup> that while recognising the need for reform, many farmers are concerned about the potential consequences of specific provisions of legislation for the financial viability of farming, and for their own security (in terms of constraints placed on them in dismissing and evicting workers).

Since it was not spelt out in its terms of reference, the Committee initially considered ignoring the problem of land-invasions, but then realised it could not do so. A large section of the farming community perceive farm attacks as part of a larger campaign to intimidate farmers in order to drive them off the land, and illegal land occupation is also seen as part of that campaign. Illegal land occupation is in fact often accompanied by a large degree of intimidation of the farmers concerned which, by definition, constitutes a farm attack. Furthermore, illegal land occupants are often involved in farm attacks in the narrow sense of the word, e.g. by committing arson or even lodging a physical attack on the farmer.

The land issue is therefore an important component of the context relating to the safety and security of farmers. It is a very complex matter, and to understand it it is necessary to give a brief overview of the fundamental tenets of the government's land policy, the relevant legislation governing that policy, and reported progress in meeting the goals set by the policy insofar as it affects farmers.

#### LAND POLICY AND LEGISLATION

While the specifics of government land policy have undergone change since the first democratic elections in 1994 (see below), the three main principles which shape the policy have remained, i.e.

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<sup>1</sup> See for example Moolman, C.J. 'A criminological perspective on property rights and violence against farmers' in *Property Rights in South Africa* compiled by Van de Graaf H. and Jordaan Dr C.L. (TAU 1999) p 163.

<sup>2</sup> Action Stop Farm Attacks *A memorandum on farm attacks and the implications thereof to commercial agriculture and food production in South Africa* (2000)

<sup>3</sup> Du Toit P 'The parallel on land reform in South Africa and the rest of the world' in *Property Rights in South Africa* compiled by Van de Graaf H. and Jordaan Dr. C.L. (TAU 1999) p 122.

<sup>4</sup> Johnson R.W. and Schlemmer L *Farmers and farmworkers in KwaZulu-Natal* (1998)

- Redistribution to provide disadvantaged and poor people with land.
- Restitution of rights in land lost through forced removals linked to homeland consolidation.
- Land tenure reform to improve security of tenure of vulnerable people and communities.<sup>5</sup>

The main goal of the policy is to redress past racial imbalances in land ownership and occupation, in line with principles enshrined in South Africa's Constitution. For example, subsection 5 of section 25 directs the state to take 'reasonable legislative and other measures' to allow citizens to acquire land on an equitable basis and subsections 6 and 7 refer specifically to the need to redress past racially discriminatory laws. However, the State 'may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race' (section 9(3)).

In order to implement this policy, a variety of land-related legislation, and amendments to legislation, was passed, particularly in the 1994 – 1998 period.

There are three pieces of legislation which are of particular importance. They are the Restitution of Land Rights Act No 22 of 1994, the Land Reform (Labour Tenants') Act, No 3 of 1996, the Extension of Security of Tenure Act, No 62 of 1997 (known as ESTA) and the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, No 19 of 1998.

### **The Restitution of Land Rights Act, Act no 22 of 1994**

The first legislation enacted after the 1994 elections was which has been amended several times. This Act was passed to provide for restitution of rights in land to those dispossessed in terms of racially based law and to establish a Commission on Restitution of Land Rights and a Land Claims court. The relevant sections of this legislation are as follows :

Subject to meeting certain criteria, a person or a community could lodge a claim to land of which he/she/they had been dispossessed since 1913 with an office of the Land Claims Commission, headed in different regions by a Regional Land Claims Commissioner (RLCC), reporting to a Chief Land Claims Commissioner (CLCC) appointed by the relevant minister. This claim had to be lodged by December 1998.

The legislation lays down specific procedures to be followed by those lodging claims. Having established that the claim meets the specified criteria, the RLCC must follow certain administrative procedures. They have powers to investigate the validity of the claim (section 12) and, if there is a dispute, refer disputes for mediation (section 13).

Section 11 stipulates that no claimant resident on the land claimed at the time of commencement of the Act may be evicted without the permission of the CLCC, but also that 'no claimant or other person may enter upon and occupy the land without the permission of the owner or lawful occupier' (sections 11,7 (b) and (d)). Land may not be

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<sup>5</sup> 'Land Reform: valuable advice for farmers' issued on behalf of Absa AgriBusiness, cited in *Natal Witness Farm Supplement*, 24-02-01.

subdivided or sold without giving the RLCC one month's notice, and such sale may be set aside by the court.

Section 14 spells out when a claim should be referred to the Land Claims Court, viz. if parties agree in writing it is not possible to settle claim by mediation and negotiation, or the RLCC certifies that it is not feasible to settle it in this way, or the parties to any dispute arising from a claim agree about how it should be finalised and the RLCC concurs, or the RLCC opines that the claim is ready for hearing in the court. Various documents must be made available to the court. After the matter has been heard, the court may dismiss the application, or may make an order, in terms of section 35 of the Act, restoring land or a portion of land claimed, or providing alternative relief, including an order to the State to grant the claimant an appropriate right in alternative state-owned land. The court may not make such an order unless the Commission has acted in accordance with all the provisions of section 14.

The original Act and its amendments spell out in detail the powers and procedures of the Land Claims Court, which has the status of High Court. Judgments may be taken on appeal. A 1999 amendment stipulates that its powers include 'to determine any matter involving the validity, enforceability, interpretation or implementation of an agreement contemplated in section 14(3), unless the agreement provides otherwise'.

In terms of section 29(1) 'any interested person, including an organisation, may apply to the Court for leave to intervene as a party to any proceedings before the court'. In terms of Section 36(1) 'any party aggrieved by any act of or decision of the Minister, Commission or any functionary acting or purportedly acting in terms of this Act, may apply to have such act or decision reviewed by the Court'.

In later amendments to the original Act, sections 42A, B, C and D were added, expanding the powers of the Minister, including in appropriating money from Parliament to facilitate the development of, or the settlement of persons on, land which was subject to an order of the court. Also of import in these amendments, are the powers given to the Minister in cases in which rights to relief in land are waived (section 42D). If the Minister is satisfied that a claimant is entitled to restitution of a right in land 'and that person has entered into an agreement in terms of which he or she has waived any or all of his or her rights to relief' the Minister, after consultation with the Commission, may award land and/or pay compensation with the monies appropriated from parliament for that purpose.

### **The Land Reform (Labour Tenants') Act, Act no 3 of 1996**

This Act is aimed at providing security of tenure for labour tenants on farms and those associated with them, and assisting them to acquire rights in land. Those qualifying for assistance include people whose parent or grandparent resided or continued to reside on a farm and had the use of cropping and/or grazing land, in return for his or her labour (sections 3 to 15). With the enactment of this legislation a person working as a labour tenant on 2 June 1995 and his/her family members were, subject to the provisions of the Act, given the right to occupy and use that part of the farm he/she was then using and occupying (section 3). This right could be terminated only within the provisions of the Act. In return the tenant had to provide labour to the owner or the lessee of the farm, or to nominate a person acceptable to the owner/lessee in his/her stead (section 4).

Section 5 of the Act prohibits eviction unless it is carried out in terms of an order of the Land Claims Court issued under the Act, following an action brought by, or supported under oath by, the owner (section 6). Section 7 empowers the Court to make an eviction provided it is 'just and equitable', and the tenant is in breach of conditions of employment (but in terms of Section 9 tenants who have reached the age of 65, or are unable to provide labour because of disablement, may not be evicted). Under certain conditions the court may also order the relocation of the tenant and associates, subject to compensation being paid to them (section 8). Upon the death of a labour tenant whose rights have been retained, his/her associates may be given 12 calendar months' notice to leave the farm (section 9). However, 'if the rights of any owner are unfairly prejudiced by the operation of this section, he or she may apply to the Court for equitable relief and the Court may make such order as it deems just and equitable under the circumstances'.

If an order for eviction is made the owner should be ordered by the Court to pay 'just and equitable' compensation (guidelines are provided), and the owner may be ordered to allow the tenant and associates/predecessors to demolish structures/improvements he/she has erected and remove materials and his/her own crops (section 10). Notice of at least two calendar months must be given to the tenant and the Director-General of Land Affairs of intended eviction (section 11), and attempts should be made to mediate any disputes between owner and worker.

Section 12 allows for labour tenant rights to be applied retrospectively, by the Court, to persons who were no longer tenants when the Act was promulgated, but would have had them had the legislation been in place on 2 June 1995. Section 13 confers exclusive jurisdiction on the Land Claims Court to hear appeals arising from relevant proceedings already underway in other courts at the commencement of the Act. There is a provision under Section 15 for urgent proceedings for eviction, the Court being guided by criteria relating to likely harm or danger to owner and/or damage to property and the absence of any 'other effective remedy available to the owner or lessee' (Sec 15b).

Sections 16 to 28 provide for the acquisition of ownership or other rights in land by labour tenants. Tenants may apply (section 16) for (a) land they are entitled to occupy in terms of section 3 of the Act, or (b) land he or she and their family had occupied during a period of five years immediately prior to the commencement of the Act and of which they had been unfairly deprived, or (c) rights in land elsewhere on the farm or in the vicinity proposed by farm's owner. At the same time tenants may apply for reasonable rights of access to water, right of way or any other servitude enjoyed as a labour tenant.

Such claims, if made, can be resolved in various ways. If claimant and owner agree about the validity of the claim, it may be settled by transferring the land claimed, or other land on the farm, or by monetary compensation. In terms of section 18 the Director-General of Land Affairs, who is party to proceedings, must confirm the agreement and, if he/she is satisfied that it is 'reasonable and equitable', must submit any agreement certified by him or her in terms of subsection (5) to the Court. However, if there is disagreement about the claim, or the Director General is not satisfied with any agreement reached between the parties to the claim, he/she should, 'at the request of any party' refer the application to Court.

The President of the Court (or a nominee) may appoint an arbitrator to hear the application (section 19). Sections 21 and 22 deal with the powers of the arbitrator, whose report constitutes rebuttable evidence in court of the facts established by him or her. In making orders, the Court may – if it has decided that the applicant has a valid claim - transfer the land in question or other land (including that held by the State) to the claimant. However, the Act makes it clear that the owner is entitled to compensation in the event of a successful claim by a tenant: 'The owner of affected land or any other person whose rights are affected shall be entitled to just and equitable compensation as prescribed by the Constitution for the acquisition by the applicant of land or a right in land' (section 23). The compensation should be paid by the applicant (section 24 – but see below re: sections 26 and 27). Section 25 deals with land subject to mortgage bonds or deeds of sale, and section 26 empowers the Minister to grant advances or subsidies, from moneys appropriated by Parliament, to assist labour tenants to acquire rights in land and to develop land occupied or to be occupied by labour tenants.

### **Extension of Security of Tenure Act, Act no 62 of 1997.**

This Act has become known as ESTA. It is intended to ensure that rights enshrined in section 26(3) of the South African Constitution – prohibiting evictions without a court order – are enforced. This legislation aims to (1) provide State assistance in ensuring security of tenure, ideally through joint efforts of occupiers, land owners and government bodies, (2) extend the rights of occupiers 'while giving due recognition to the rights, duties and legitimate interests of owners', and (3) regulate the conditions under which occupiers may be evicted.

An occupier is defined in section 1 as 'a person residing on land which belongs to another person, and who has on 4 February 1997 or thereafter had consent or another right in law to do so' but excluding (a) a labour tenant, (b) a person using or intending to use the land in question mainly for industrial, mining, commercial farming purposes (but including a person who works the land himself) and (c) a person who has an income in excess of a prescribed amount.

According to section 2, the Act applies to all land except (with certain exceptions) proclaimed township land. It obviously includes farm land. Of particular relevance to land owners is the issue of what is deemed to constitute 'consent' to reside on land, dealt with in section 3. If a person residing on, or using, land on 4 February 1997 had previously done so with consent, and that consent had been 'lawfully' withdrawn prior to that date, that person would be deemed an occupier 'provided he or she has resided continuously on that land since consent was withdrawn'. However, the withdrawal of consent would constitute a valid termination of the right of residence, 'provided that it was just and equitable' in terms of the provisions of section 8, which section regulates the termination of rights in residence. Other important clauses regarding consent 'for the purposes of civil proceedings' are contained in subsections 4 and 5 of section 3: A person who has continuously and openly resided on land for a period of one year shall be presumed to have consent unless the contrary is proved, and a person who has continuously and openly resided on land for a period of three years shall be deemed to have done so with the knowledge of the owner or person in charge. (However, these two provisions do not apply to State land.)

Section 4 outlines the ways in which subsidies may be used for purposes of development of land or assisting occupiers or former occupiers to acquire land rights. The criteria by which applications for such subsidies would be assessed are detailed, bearing in mind the 'mutual accommodation of the interests of occupiers and owners'. In granting a subsidy to beneficiaries of a development, the Minister should be satisfied that 'the development is acceptable to a majority of the adults concerned'. In the case of development envisaged under this section, the provisions of the Subdivision of Agricultural Land Act 1970 should not apply.

Chapter III starts by affirming the fundamental rights of both owners and occupiers (section 5), and then details the rights and duties of occupier (section 6) and owner (section 7). The occupier should have the right to reside on or use land he/she occupied or used on or after 4 February 1997, and 'have access to such services as had been agreed upon with the owner or person in charge, whether expressly or tacitly'. At the same time, the occupier must not engage in unlawful conduct, e.g. damage to property, intimidation, or enabling or assisting 'unauthorised persons to establish new dwellings on the land in question' (section 6). The owner should not interfere in the occupier's exercise of his/her legal rights but may, if the occupier has been warned to move a trespassing animal, and has not done so, have such animal impounded in terms of relevant law (section 7).

Sections 8 to 15 regulate the termination of rights of residence and eviction. An occupier's right of residence may be terminated on lawful grounds, if it is 'just and equitable', taking into account factors such as existing agreements, conduct of parties, fairness of procedures followed by owner. If the occupier is an employee the provisions of the Labour Relations Act apply. The rights of persons who have lived on land belonging to the owner for 10 years, or who have reached the age of 60, or who are disabled, may only be terminated under certain conditions which relate to unlawful activities or a serious breach in the relationship between owner and occupier. Dependents should be given 12 months written notice to leave if an occupier dies. (These provisions are similar, but not exactly the same, as those of section 9 of the Labour Tenants' Act, referred to above.)

Section 9 makes it clear that an occupier may be evicted only in terms of an order of court, and the conditions under which order may be issued are given. The owner should give the occupier, the municipality in which the land is situated, and the head of the provincial Land Affairs office, at least two months' written notice of the intention to obtain an eviction order.

In terms of obtaining an order for eviction, the Act distinguishes between persons who were occupiers on 4 February 1997 (section 10) and those who became occupiers after that date (section 11). The criteria governing eviction are outlined. Even if the conditions laid down are not met, the Court may order eviction 'if it is satisfied that suitable alternative accommodation is available to the occupier concerned'. Depending on circumstances and conduct/interests of the two parties, the court may also order an eviction even if no alternative accommodation is available. In ordering the eviction of persons who became occupiers after 4 February 1997, factors such as existing agreements about when residence would terminate, length of time occupier has resided on land, availability of alternative

accommodation, reasons for proposed eviction, and the respective interests of owner and occupiers should be taken into account.<sup>6</sup>

If an order for eviction is granted, compensation should be paid to the occupier for any improvements he/she has effected, and the opportunity must be given for structures, crops, etc. to be removed. (These provisions are similar to those of the Land reform (Labour Tenants) Act, No 63 of 1996 discussed above.) Such compensation, to be determined by the court, must be paid before the execution of the eviction order (section 13).

In terms of section 14 a person who has been evicted contrary to the provisions of this Act may apply to court for restoration of lost residence and rights and/or for compensation, damages and costs (provided, however, occupation had been 'peaceful'. Had the eviction been carried out in terms of a court order (i.e. prior to the existence of the 1997 Act), such proceedings would have to be instituted within one year of the commencement of the 1997 Act. Section 15 provides for 'urgent proceedings for eviction ... if there is a real and imminent danger of substantial injury or damage to any person or property if the occupier is not forthwith removed from the land'.

Chapter V covers matters relating to 'Dispute resolution and courts', of which the following are of particular relevance to the topic at hand: A party may institute proceedings in the relevant magistrate's court or in the Land Claims Court. If all parties consent proceedings may also be instituted in the High Court (section 17). A magistrate's court has jurisdiction in proceedings for eviction or reinstatement and criminal proceedings in terms of the Act, and may also grant interdicts and issue declaratory orders. Civil appeals from magistrates' courts must be handled by the Land Claims Court, and any order for eviction by a magistrate's court before 31 December 1999 should be subject to automatic review by the Land Claims Court (section 19). Full powers of jurisdiction in terms of the Act are given to the Land Claims Court, including in decisions on any constitutional matter relating to the Act and the review of arbitration award.

A party to a dispute may request the Director-General to appoint a person or persons with the relevant expertise to facilitate meetings of interested parties and attempt to settle the dispute through mediation (section 21). The dispute may be referred to an arbitrator, including to a member of the panel of arbitrators established under the Land Reform (Labour Tenants) Act (section 22).

A person who has been unlawfully evicted, i.e. without an order of the court, may also institute a private prosecution in terms of the provisions of the Criminal Procedure Act of 1977 (section 23).

### **The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, Act no 19 of 1998)**

In addition to repealing the Illegal Squatting Act of 1951 and some other legislation, this Act, in terms of rights enshrined in Sec 25(1) and 26(3) of the Constitution, aims to prohibit unlawful evictions while providing for procedures for the eviction of people who

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<sup>6</sup> The main difference between the provisions of sections 10 and 11 seem related to the issue of accommodation).

occupy land unlawfully, which evictions should be carried out in a fair manner. An unlawful occupier is defined in section 1 as ‘a person who occupies land without the express or tacit consent of the owner or person in charge, or without any other right in law to occupy such land’ excluding certain persons, such as those protected by ESTA.<sup>7</sup>

In applying for the eviction of an unlawful occupier, the court should serve written notice on the occupier and the municipality having jurisdiction and certain information must be contained in that notice (section 4). After considering the facts, the court may order an eviction if it considers it ‘just and equitable’ to do so (subsection 6 and 7); however, if the occupier has been on the land for more than six months it should also consider ‘whether land has been made available or can reasonably be made available by a municipality or other organ of state or another land owner for the relocation of the unlawful occupier’. The court may also make an order for the demolition and removal of the buildings or structures that were occupied by such person. There is also provision for urgent proceedings for eviction, but written and effective notice must be given to the unlawful occupier and municipality (section 5).

Section 6 deals specifically with eviction at the instance of an organ of state. Municipalities having jurisdiction over, or owning, the land in question, may arrange for mediation with a view to settling any dispute in terms of the Act (section 7).

No person may be evicted without an order from a competent court and if an unlawful eviction takes place there is an allowance for private prosecution (section 8). Magistrates’ courts have jurisdiction to issue orders or instructions, or to impose penalties, in terms of the Act.

Finally it should be noted that it is illegal for any person to receive or solicit payment for arranging, organising or permitting land occupation without the consent of the owner or person in charge of the land (section 3).

### **Evaluation of the legislation**

These four pieces of legislation outlined above provide a framework for claiming for restoration of rights lost as a result of racial discrimination of the past, and for preventing any further erosion of rights relating to land (through, e.g. arbitrary eviction). At the same time, they attempt to protect the rights of property owners, including farmers, through stipulating, for example, that the behaviour of different parties should be lawful, that compensation should be paid wherever due, and that decisions taken and rulings made should be ‘just and equitable’. Allowances are made for disputes to be settled by mediation or arbitration, and, in the case of lands claims, for example, agreements can be reached between different parties without recourse to court action. With regard to land restitution claims, these can be addressed not only by restoring rights to the land originally occupied (if the claim is deemed valid) but also by monetary compensation or the award of other land.

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<sup>7</sup> Those with an informal right to land – linked primarily to homeland or national states land occupation - protected by the provisions of the Interim Protection of Informal Land Rights Act, No 31 of 1996, are also excluded. This interim legislation was in operation only for a limited period of time, however, lapsing on 31 December 1997.)

What of the role of the courts? Du Toit<sup>8</sup> argues that the incorporation of the Land Claims Commission into the Department of Land Affairs represents a ‘mockery of the general principles of natural justice, the rule of law and the separation of powers’ and suggests that, unless there is a dispute over facts in a claim, or elect for adjudication by the land claims court, it will ‘no longer be compulsory to refer cases to the land claims court for adjudication’. The above overview of the legislation shows, however, that the courts – especially the Land Claims Court, which has equivalent powers to the High Court – continue to play a pivotal role in disputes of all kinds around land, including if there is a lack of consensus or disagreement on any land-related issues. Coertse, too argues that the court continues to play a very important role, ‘very much in the forefront of the government’s social engineering programme’.<sup>9</sup> Despite the provisions in the Land Restitution Act for settling claims by administrative process leading to ‘agreement’ – which the National Land Claims Commissioner has claimed is speeding up the restitution process<sup>10</sup> – there is no suggestion in the legislation that the role of the courts has been diminished. Indeed, as Coertse notes, there is now a provision for any interested party to approach the court.

Nor should it be forgotten that the Constitution itself contains provisions for ‘Just administrative action’ (section 33) – including being given written reasons for administrative action which has adversely affected their rights. Furthermore, in terms of the Constitution the government must ensure that review of administrative action by a court is written into legislation, which it is, in the case of land issues.<sup>11</sup>

There is, then, on paper, a commitment to reform and restitution within a legislative framework. At the same time media reports suggest that progress in meeting policy goals has been painfully slow, and that this tardiness is fuelling threats of, and actual, land invasions.

Finally, it should be noted that the above legislation, and especially the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, Act no 19 of 1998, has now been definitively interpreted by the High Court in the epoch making judgement of *Modderklip Boerdery (Ems)Ppk vs Die President van die Republiek van Suid Afrika e.a., Transvaal Privincial Division, Case No 23170/2001 of 2002-11-20*, which sets out the Government’s responsibility in preventing the illegal occupation of land, on the one hand, and in providing suitable residential land to the homeless, on the other hand. This case is fully discussed elsewhere.<sup>12</sup>

## LAND REFORM PROGRESS

It is not the intention to provide a detailed discussion and analysis of current trends in land policy – which is beyond the scope (and competence) of this committee’s work – but merely to draw attention to some key issues in debates about the success or otherwise of

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<sup>8</sup> Du Toit P. *op cit* p 124

<sup>9</sup> Coertse M. ‘The Restitution of Land Rights Act and the Land Claims Court’ in 1999 *de Rebus* p 12.

<sup>10</sup> Natal Mercury, 2000-11-10

<sup>11</sup> Also, in *Natal Witness*, 2002-09-09, the Chief State Law Advisor confirms that landowners still retain the protection of the Bill of Rights when applying to evict an unlawful occupier.

<sup>12</sup> See p 111.

the current policy. It seems evident that the extent to which progress in meeting policy goals will impact upon the expectations of putative beneficiaries of this policy, which in turn may impact upon rural stability and safety on the farms.

There was a discernable shift in the specifics of policy after the second democratic elections in 1999, primarily in terms of increased emphasis on 'the importance of commercial farming as stimulus for rural economic growth'<sup>13</sup> with a view to building a 'core of successful black farmers'<sup>14</sup>. During 2000 there were reports that the government planned to resettle 70 000 black commercial farmers on nearly two million hectares of state land, over a period of fifteen years<sup>15</sup> and that that by 2015 one third of all land currently held by white farmers – 26 million hectares – should have been transferred to landless black people<sup>16</sup>.

The emphasis on commercial farming led to criticism that this shift in policy failed to address the needs of the poor majority, and would widen the gap between the 'haves' and 'have nots'.<sup>17</sup> However, the Director-General of Land Affairs stressed that redistribution programmes for land settlement for residential purposes, commonage and farm worker equity schemes would continue, albeit in a slightly modified form,<sup>18</sup> and in August 2001 the Minister for Agriculture and Land Affairs launched the Land Redistribution for Agricultural Development (LRAD) scheme, offering a range of grants and loans to 'give historically disadvantaged South Africans (blacks, coloureds and Indians) access to agricultural land' to stimulate both subsistence and commercial farming. It was estimated that this programme would cost up to R22 billion over a fifteen year period.<sup>19</sup>

Despite this commitment by the government, '(b)y the land affairs ministry's own admission, the government's implementation of the land reform programme...has not yielded spectacular results'.<sup>20</sup> For example, in February 2001, of the 14 808 land claims lodged with the Land Claims Commission in KZN (the vast majority, 11 445, of which were urban claims), only 2 023 had been settled. Of a total of 3 353 rural claims only 586 had been settled.<sup>21</sup> According to the annual report of the Department of Land affairs for the period ended 31 March 2002, the total amount of land redistributed, country wide, during the twelve month period in question was 365 993 hectares of farming and residential land (263 972 hectares of which was state land), out of a targeted figure of 518 500, only 83 530 households had benefited. According to the media report citing these figures, the Department was struggling to deliver, and staff were leaving.<sup>22</sup>

<sup>13</sup> J Kirsten in *Mail and Guardian* 2000-04-14

<sup>14</sup> 'Thoko Didiza talks about plans and policy' in *Afra News* No 46 March 2000 p 4-9

<sup>15</sup> *Mercury* 9 May 2000-05-09

<sup>16</sup> *Mercury Business Report* 2000-09-16

<sup>17</sup> Kariuki S. 'Land reform could widen the divide' in *Mail and Gaurdian* 200-03-10. Amongst other critics of the policy shift were Ben Cousins of the University of the Western Cape : 'Land reform at the crossroads: Who will benefit?' in *Reconstruct* magazine, reprinted in *Afra News* No 46 March 2000; see also 'Trickle-down development' by Drew Forrest in *Natal Witness* 2000-05-12.

<sup>18</sup> *Mercury* 2000-07-14

<sup>19</sup> 'Land redistribution for agricultural development', full page advertisement in *Natal Witness* 2001-09-05; 'Land reform gains ground' *Daily News* 2002-05-23.

<sup>20</sup> Moloi D. 'PAC makes ground on land issues' in *City Press* 2002-02-17

<sup>21</sup> *Daily News* 2001-02-14. In April 2001 it was reported that the Department of Land Affairs in KZN had spent only 38% of its budget in the year ending 31 March 2001, which the report linked to 'in fighting' *Natal Witness* 2001-04-02; in October 2001 it was reported that out of 102 positions in Land Affairs in KZN, 39 were unfilled *Natal Witness* 2001-10-09.

<sup>22</sup> *Natal Witness* 2002-10-23

Referring to the issue of land claims, the National Land Claims Commissioner, however, has warned against sacrificing quality to speed up the reform process, pointing out that redistribution of land had to be 'sustainable', i.e. development had to accompany a hand over of land. This process is an extremely costly one, requiring a vast budget.<sup>23</sup> After providing a detailed breakdown of the land reform budget for the years 2001/2, David Mayson of the Surplus People Project, which researches land-related issues, concludes that 'it is clear that the budgets allocated to the relevant departments will not enable an ordered, fundamental and economically sustainable redistribution of land in South Africa'.<sup>24</sup> Periodic calls for, and allusions to, expropriation of land by the government appear linked to the financial implications of land reform policy. For example, the National African Farmers' Union and the National Land Committee reportedly called on the government to expropriate land it could not afford to buy<sup>25</sup> and allegedly both the Minister and Deputy Minister of Land Affairs had called for an updating of laws to allow expropriation for land redistribution.<sup>26</sup>

During the past two years in particular the slow pace of land reform delivery has been used as an excuse to threaten illegal invasions in different parts of the country, including the Western and Eastern Cape and kwaZulu Natal.<sup>27</sup>

While the question of land invasions sprang to prominence with the confrontation between government and thousands of invaders in Bredell, East Rand, and shortly afterwards in Daveyton,<sup>28</sup> such invasions have been taking place in a number of rural areas of the country for several years, as case studies cited in this report show.<sup>29</sup> Apart from the cases of land invasions discussed in this report, there are other examples: In 1996 the Pretoria High Court issued an eviction order against a group of squatters who had invaded land belonging to black cattle farmers in Mpumalanga, but in December 1997 the illegal occupants were given a third extension of the eviction order until 31 March 1998 by the Judge because 'the machinery of the state is slow'. The judge reportedly commented that if the Minister failed to move faster the land's owners would lose all confidence in his bona fides and that of the land affairs department.<sup>30</sup> The threat of orchestrated land invasions intensified during 2001 and 2002, with the newly launched Landless People's Movement quoted as saying, in July 2001, that if the movement's demand for land was not met within

<sup>23</sup> In the large Langa land claim in the Uitenhage area, R86 million had been paid out to claimants who had been dispossessed of their land and relocated during the homeland consolidation era - *City Press* 2002-09-08

<sup>24</sup> Mayson D. *A critical analysis of the 2001/2002 budget for land reform in South Africa* p 10

<sup>25</sup> *Mercury* 2000-11-10

<sup>26</sup> *Mercury Business Report* 2001-04-06

<sup>27</sup> The Restitution Forum of the South Cape and Karoo, representing 18 different community organisations and about 3 000 claims, was reported as having written to the President 'as a last resort because of delays in processing their claims for restitution, and threaten to embark on land invasions - *Mail & Guardian* 2000-04-14. At the same time the Transkei Land Services Organisation, described as one of Eastern Cape's most influential lobby groups for farm workers and dispossessed rural communities, threatened Zimbabwe-style invasions because of slow pace of delivery - *Mail & Guardian* 2000-04-28. In June 2001 a group of men representing several communities in northern KZN told the *Natal Witness* that delays on the part of Land Affairs were fuelling pressure to invade land - *Natal Witness* 2001-06-21.

<sup>28</sup> See p 111

<sup>29</sup> See p 96 *et seq*

<sup>30</sup> *Business Day* 5 December 1997-12-05, reprinted in *Land Update* Jan/Feb 1998

a 'reasonable time' it would 'have no option but to adopt Zimbabwe-style land invasions'.<sup>31</sup>

Prof Laurence Schlemmer cautions that that the image of poor people, desperate for a place to stay, is only part of a broader picture in which 'moneyed entrepreneurs', or people able to make political capital, benefit from their plight<sup>32</sup>). Similar allegations have been made in some of the case studies described in this report.

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<sup>31</sup> 'Land occupations are "inevitable"' *Mail and Guardian* 2001-07-27

<sup>32</sup> Schlemmer L 'The real housing story' in *Focus* (Issue 23, September 2001) p10-13

## CHAPTER 16

### SECURITY ON FARMS AND SMALLHOLDINGS

#### INTRODUCTION

It became very clear to the Committee at a very early stage of its enquiry that security measures on many farms and smallholdings were inadequate or even totally absent. The case studies that the Committee undertook showed that a large proportion of properties attacked had no security measures at all, while others only had rudimentary security systems in place. Even on those farms where nominally there were good security systems, they were often out of order or not being utilised by the farmer.

In several of the reports on farm attacks issued by the Crime Information Analysis Centre, reference is made to the lack of security on farms in general.<sup>1</sup> All the investigating officers interviewed and many other police officials who made submissions to the Committee, also expressed great concern about the lack of security on many farms. These persons are all very experienced in the field of farm attacks, and great weight must be attached to their views even though they are subjective opinions. It would nevertheless be useful to have objective data on farm security.

Nominally the database used by NOCOC should contain information regarding the security on all farms that have been attacked. When the Committee examined the database, however, it turned out that that particular field had not been properly covered. Fortunately some studies specifically concentrating on farm security have been undertaken.

#### STUDY BY CHIEF JOINT OPERATIONS

Col. B.J. Schoeman, a member of the SANDF and attached to Chief Joint Operations, conducted such a survey on farms attacked during 1999 and 2000.<sup>2</sup> He found that on the majority of farms that suffered attacks there had been inadequate security measures. For the purposes of the survey he set the following protection standards:

- Burglar bars of a certain minimum strength should be fitted to at least all opening windows. If there is an internal security gate separating the sleeping quarters from the living quarters, all the opening windows in the sleeping quarters must be burglar proof.
- Security doors must be fitted to all outside doors or, if there are no security doors, the outside doors must have additional locking devices as a minimum requirement.
- External lights must be installed at least at all outside doors, but should preferably be installed all round the house and at the gate. The lights must be controlled from inside the house and must allow observation from the house through the windows without silhouetting the observer.

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<sup>1</sup> See, for example, CIAC Report no 1/1999 *Attacks on farms and smallholdings* (CIAC 1999, compiled by Supt J.C. Strauss) p 9.

<sup>2</sup> Col B.J. Schoeman, interview and written presentations on 2003-02-13

- Dogs or geese must be kept to act as an early warning system. At least two capable dogs or at least five geese are required for this purpose.
- There should be a fence around the yard with a lockable gate. The dogs or geese should be kept inside this area.
- A communication system such as a Telkom landline is essential, with an alternative such as a radio or cellular telephone.

Col. Schoeman studied 810 incidents of farm attacks which occurred during 1999. He found that in no fewer than 454 incidents (56%) the security measures did not meet the standards set out above. Furthermore, in 162 cases (20%) where the protection levels were up to standard they were either not utilised, e.g. doors being left open, or else they were not functional due to neglect, e.g. broken bulbs in external lights not being replaced. In 32 incidents (4%) it was not possible to determine the level of protection.

In the 454 cases where the protection level was deficient, the biggest problems were as follows:

- In 431 cases (53.2% of the total) no burglar bars were installed at all.
- In 451 cases (55.7%) there were no security doors.
- In 411 cases (50.7%) there was no or inadequate fencing.
- In 387 cases (47.8%) the victims did not have dogs at all. In another 99 cases the dogs were inefficient, and if these cases are also taken into account, the number of farmers without suitable watchdogs increases to 486 or 60%.

Col. Schoeman also commented on the fact that almost 40% of the victims actually had adequate protection, but were nevertheless attacked successfully by the intruders. Good security systems by themselves are therefore no guarantee against attacks – the mindset of the victims in terms of mental preparedness also plays a significant role.

In terms of provincial spread, the best protected farms were in KwaZulu-Natal, with the worst in the Free State and Northern Cape. Security in Limpopo and North West Province also did not have the required quality of protection. In Mpumalanga the protection levels varied dramatically between extremely high and virtually none. In Gauteng and the Western Cape, the smallholdings in the more affluent areas were extremely well protected, although elsewhere the protection varied between reasonable to poor.

At a national level there is a correlation between the quality of protection and the levels of victimisation. (This simply means that the better the security the less will be the chance of being attacked.) In Gauteng there is a deviation to this pattern, however, in that in the Wierdabrug and De Deur areas, which are both hotspots in terms of farm attacks, victimisation occurred to about an equal degree in the well protected and the badly protected smallholdings.

Colonel Schoeman repeated the survey during 2000. He found that the security situation had virtually not changed – there was a deviation of less than 1% which, statistically, was not significant.

## STUDY BY CIAC, EASTERN CAPE

Inspector P.deJ. Cronje (now Captain) from the CIAC office in the Eastern Cape coordinated an exhaustive research study during 2001 on security on all farms in the 21 police precincts, making up the Karoo SAPS Area of the Eastern Cape. He compiled separate but similar reports for each of those precincts under the title 'Identifying and addressing farm attack risk factors'. Although the reports were classified as secret, due to the sensitivity of the information in them, they were made available to the Committee and the Committee was given permission to publish some of the information.

The reports stresses that the police can do little about the reasons motivating criminals to commit farms attacks. They can play a meaningful role in preventing this crime, however, by pro-actively identifying possible targets and taking preventative measures. The purpose of the study therefore was to identify the farms most at risk, to enable the police to implement a suitable strategic safety plan, to bring security in the area to an acceptable standard, and to thwart the threat of crime displacement. The research was therefore practice-oriented. It should also be emphasised that the research study was based on accepted criminological theory, which will be discussed below.

For the purposes of the study each precinct was asked to identify risk factors which they thought were applicable to their particular circumstances. These factors were then evaluated in terms of known farm attack intelligence and their relevance was also evaluated in terms of applicable criminological theories. Thirteen risk factors were found to be universally applicable to all precincts, while in two precincts three additional risk factors were included.

The risk factors were then incorporated in a research questionnaire, and each of all the permanently occupied farms in the area, numbering some 1614, was visited individually by field workers. The survey therefore involved not just a sample but the universum. Only the security measures at the main homesteads were investigated, as it was assumed that they represented relative wealth in the eyes of the rural criminal to a far greater extent than other houses such as the farm workers' cottages. Where the main house was occupied by employees, however, it was included in the survey.

After the field studies and completion of the questionnaire, the total risk factor for each farm was calculated, each positive risk being given one point. Many farms had a risk factor of 9 out of 13. None was rated with zero risk, although a couple had only one risk factor present. The average for the risk factors for all the farms in the particular precinct was then calculated. The thirteen generally applicable risk factors and their importance, also from a criminological point of view, will be discussed in greater detail later. At this stage it will suffice to give the results of the survey.

The average results for all 1614 farms in the 21 precincts were as follows:

No signs warning trespassers to keep out	83.0%
No proper fencing around homestead	45.5%
No proper fencing at houses of employees	79.5%
No or unlocked home yard gates	72.8%
No or ineffective guard dogs	55.1%
No or unlocked door security gates	41.2%

No burglar proofing at all windows	60.8%
No proper external lighting	29.7%
No monitored alarm system	70.0%
Farms with persons of 60 years or older	19.5%
Farms occupied by single residents	5.8%
Farms with shops or stalls	2.9%
Farms subjected to crimes during 2001	25.2%

The risk factors will be discussed below in greater detail under security measures, and their importance from a criminological point of view will also be pointed out.

After analysing the results of the survey, a rural crime prevention strategy for each precinct was then formulated for 2002, setting out the objectives, strategy, responsibilities and time frames. An objective, for example, might be to improve crime intelligence capacity in rural areas. The strategy might then be to involve farm workers in the Rural Safety Plan, the responsibility might be allocated to SAPS and farmers' associations, and the time frame might be to promote it during farm patrols and at meetings. Typically 20 or 25 objectives might be set for a precinct. Again, for safety reasons, the specifics of those objectives cannot be published.

Two modes of evaluating the crime prevention strategy are to be used in the project. Process evaluation is to be carried out continuously to determine whether the action plan is being implemented correctly by the station commissioner. Impact evaluation will assess the outcome of the strategy by comparing statistical data. This will require follow-up research. (This has not yet been completed.)

In conclusion the reports note that by improving security on a specific farm, crime may be displaced to a neighbour who is a softer target. The security standards of the whole community must therefore be increased to an acceptable level. Disinterested farmers should therefore not be sidelined, but rather assisted and encouraged to co-operate.

Reference should be made to another study conducted by CIAC in the Eastern Cape during 1998.<sup>3</sup> The study concentrated on three aspects, namely whether farms were sufficiently safety conscious, whether farms owned a large number of firearms and whether farmers had sufficient capacity to communicate with the outside world. A total of 207 farms were visited, and the results of the survey are given in the following table.

Watch dogs not efficient	60%
Homes with no security gates	55%
Security gates found open	56%
Homes without burglar proofing	58%
Homes without external lighting	39%
Farmers not carrying firearms	81%
Farmers with five or more firearms	50%
Firearms not stored in a safe	8%
Women found alone on farm	19%
Women alone with open doors	46%
Farms with only telephone communication	17%

<sup>3</sup> See CIAC *Attacks on Farms and Smallholdings* (Report No 1 of 1999 compiled by Supt. J.C. Strauss)

It was also found that 79% of the farms had a citizens band, Marnet or Nearnnet radio systems, while 15% had cellular telephones.

As a result of the findings the 1999 CIAC report made certain suggestions to enhance security on farms and smallholdings, which will also be discussed under the section on security measures.

### Comparison between the Eastern Cape and the national studies

It is somewhat problematic to draw a comparison between the national and the Eastern Cape Karoo surveys, because different criteria were used to evaluate the various factors. Nevertheless, the results were as follows (see Table 53):

Table 53

Security levels nationally compared to Eastern Cape			
National		Eastern Cape Karoo	
No burglar bars at all, even at opening windows	53.2%	No burglar bars or burglar bars not covering non-opening windows	60.8%
No security doors or doors with extra locks at all	55.7%	No security doors or security doors not locked	41.2%
No fencing and gates to keep dogs or geese inside	50.7%	No security fencing or gates not locked	45.5%
No or ineffective watch dogs	60.0%	No or ineffective watch dogs	55.1%

It will be seen that on a national level the security measures in three of the four of the categories are inferior to those on the Eastern Cape Karoo farms. The only exception was in respect of burglar bars, but different tests were applied: in the national study only the opening window had to be covered. In the Eastern Cape fixed windows also had to be protected. In all likelihood, their figure would have been considerably lower if only opening windows had been taken into account. Furthermore, in the Eastern Cape study the fact that the security doors and gates were unlocked was taken into account when considering the effectiveness of the measure, but not in the national study. The discrepancy in the figures is therefore likely to be larger than indicated in the table.

These figures may be significant when the preventative effect of security measures on farm attacks is evaluated, because the national survey only included farms which had been attacked, while the Eastern Cape survey included all farms in a specific area. One is therefore tempted to say that the figures indicate that attacks tend to occur on farms where the security is not so good.

This may well be the case, although Col. Schoeman stresses that the security measures on farms differ widely from area to area and even within the same area. It is also difficult to make direct comparisons without knowing what the incidence of farm attacks in terms of

the number of farms is. The incidence of farm attacks in the Eastern Cape Karoo can be established very accurately. They had an average of about 3.4 attacks per year on the 1614 farms during the period 1995 to 2001. A farm therefore has a chance of about .2% (one in five hundred) of being attacked in any specific year. However, it is very difficult to calculate the incidence of farm attacks nationally in this fashion, since it is unknown how many farms there are and how many are inhabited.

## **THE NEED FOR SECURITY**

The two national surveys by Chief Joint Operations and the two surveys by the Eastern Cape office of CIAC, confirm what investigating officer after investigating officer has told the Committee, namely that on many farms security measures are totally inadequate or even non-existent. It is probably the single most important aspect which needs urgent and immediate attention, irrespective of what the underlying causes of farm attacks might be. It does not matter whether farm attacks are politically or racially inspired, or whether they are motivated by the hunger for land or by the socio-economic plight of the underprivileged, or whether they are merely manifestation of greedy, criminal behaviour: proper security measures are essential.

There may be several reasons for this state of affairs. Firstly, traditionally farms used to be regarded as safe havens, compared to the crime ridden urban areas. There was a time when farmers could leave their property without even locking the door but that is no longer the case. This applies especially to the white farming community. In fact, there are indications that a white farmer and his family may be more at risk than his counterpart living in a small town or a village. There are no definite statistics available, but several commanding officers of Serious and Violent Crime Units are of the opinion that a white farmer has a far greater chance of being murdered than a white town dweller.<sup>4</sup> Yet many of those white farmers still harbour the view that, because they have a right to feel safe on their own farms, they have no personal responsibility towards their own safety. (Unfortunately, it is impossible to draw a comparison between city dwellers and farmers.)

Secondly, it is often said that proper security is expensive and that many farmers simply cannot afford it. There can be no doubt that the best of the security systems are very expensive, both in terms of installation costs and in terms of running costs. On the other hand, some security measures are cheap, and some in fact cost just about nothing at all. There is therefore no excuse for not being security conscious.

Thirdly, some persons have even expressed the view that security systems may be counter-productive, because they lead the would-be attackers to believe that there must be a great deal of money or firearms which need protection on the property. This is clearly a fallacy, since if the theory was correct, one should leave all the windows open and the doors unlocked.

Fourthly, many farmers think they can rely on their firearms for protection against farm attacks. The problem is that most farm attacks are sprung as a surprise and usually at a moment when the victim is unarmed. Furthermore, it is not often that the rest of the

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<sup>4</sup> Interviews with Supt. Mabula, North West Serious and Violent Crime Unit, Capt. Koekemoer, Limpopo SVCU and Capt. van Zyl, Mpumalanga SVCU, on 2003-02-10

farmer's family, especially his wife and daughter, are proficient in the handling of firearms. Also, some firearms, such as hunting rifles, are not suitable for self-defence. It is a legal requirement that weapons not carried on a person must be safely stored in a safe. It may not be so easy to get hold of a firearm when it is really needed.

Fifthly, the argument is raised that no security system is impenetrable. They point to cases where even electrical fences around the homesteads did not deter the intruders and they say other forms of security help even less. The fact of the matter is that the criminal will follow the course of least resistance. Of course no security system can be completely effective, but it will make life more difficult for intruders. As we have seen above (*see p 00*) criminals follow the route of least resistance, and if things are made too difficult for them they will look for other softer targets.

A corollary to the above argument is the fact that not all farm attacks take place inside the house. In fact, from the official report of CIAC on farm attacks during 2001 it appears that only 50.8% of all farm attacks are initiated inside the house, 29.2% start outside the house, while the rest (20%) take place at a gate, in the fields somewhere on the farm, at the farm shop or office, etc. This does not mean that house security becomes less important. Furthermore, many of the security measures will also assist in curbing attacks outside the home, and in respect of the others certain precautionary measures can also be taken.

The Committee was told by a prominent representative of the Transvaal Agricultural Union that suggestions for better security would not be a solution to the problem of farm attacks, because that would not remove the root causes. (It should be mentioned immediately that that particular organisation has in fact done much to promote security on the farms.) The fact of the matter is that there is no grand solution to the problem. The problem is multi-faceted and should be tackled in a multi-faceted and multi-disciplinary way as well. From a security point of view, however, it is irrelevant whether farm attacks are caused by common criminality, the desire to drive the farmer off the land or for any other sinister reason.

If it is accepted that the greater majority of farm attacks are the product of common criminality, it follows that farm attacks will only be stopped effectively when crime in South Africa as a whole is eliminated. That will never happen, and there will always be farm attacks. One can only endeavour to curb farm attacks as much as possible. Even if it is accepted that farm attacks are largely due to some hidden force with political motives, that is clearly not something that can be tackled in the short term. In the short and medium terms at least, upgrading security on the farms is the single most effective way to resist the scourge of farm attacks.

Many farmers, like many other citizens of the country, say that it is the Government's responsibility to curb crime and to protect them. It is irrelevant whether this is true or not: the fact is that the Government cannot do this. Farmers must care for their own protection: that is the warning going out from many quarters.<sup>5</sup>

Until now the Commandos have played a major part in the pro-active as well as reactive support of the farmers against farm attacks. It was announced on 2003-02-17 by the Minister for Safety and Security that the commando system was to be abolished and their

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<sup>5</sup> See 'Boer moet self vir beskerming sorg' in *Lanbouweekblad* 2002-07-22

functions were to be taken over by crime prevention units of the police.<sup>6</sup> Widespread concern has been raised by various people, but especially organised agriculture, that the withdrawal of the commandos would leave a vacuum in rural protection and that the police has neither the capacity nor the experience to take over this function. The assurance has been given by SAPS that this will never happen: the change-over will take place over six years, and the police will only take over if they have the capacity.<sup>7</sup> The fact of the matter is that no-one can say what will happen, but it would be naive to assume that a change of this magnitude will take place without a hitch.

The studies referred to above all indicate the type of security measures that farmers should be looking at. Some suggestions made by the Eastern Cape CIAC office are to be found in CIAC's 1999 report on farm attacks<sup>8</sup> During 2001 the SAPS, SANDF and Agri SA, with contributions from TAU, jointly issued an excellent booklet 'National guidelines for farm and smallholding protection'. Recommendations for improving farm security have also been made in several other publications. In a series of very instructive articles in the *Landbouweekblad*, written by C. van Rooyen with the assistance of J. Geldenhuys, a security and self-defence expert<sup>9</sup>, and various other persons, some important aspects of farm security are discussed. These ideas will be discussed below.

A good farm security system will include proper security fencing with lockable gates, effective watch dogs, alarm systems, burglar bars, etc. Personal safety may be further ensured by effective radio communication, cellular telephones, firearms and self-defence training. A security network with the security forces and neighbours is important, as is the involvement of other farm residents and especially the employees. Safety-conscious habits are also important.

Furthermore, other factors which may increase the risk of farm attacks should be identified. A single resident on a farm is a more likely target for an attacker, as are elderly people. A farm shop or stall, or simply selling farm produce out of hand, poses an increased security risk. The fact that the farm is situated near a major public road or a railway line may entail an increased risk. An area where criminals and gangs operate, such as an informal settlement, may pose a security threat. Obviously, when there is an increased risk from whatever source, the security measures have to be stepped up.

Some of these measures are discussed below. It is impossible to implement all of them and to do so will make daily life on a farm intolerable. Some measures may simply be impracticable or too expensive. If there is one point of criticism that can be levelled against some of the publications mentioned above, it is that they sometimes appear too demanding, causing the farmer to throw his hands into the air in despair. It may be better to have a few measures which are fully implemented rather than a whole series which are not adhered to and which only create a false sense of security. Furthermore, some measures are relatively cheap, and some cost literally nothing. Some are easy to implement and amount to little more than changing one's habits very slightly. One should therefore never be heard to say that it is not possible to implement security measures. The farmer should do what is practicable and affordable.

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<sup>6</sup> See p 320.

<sup>7</sup> Radio interviews with Mr Kiewiet Ferreira of Agri SA and Com. Johan Burger, RSG, 2003-02-20.

<sup>8</sup> See CIAC *Attacks on farms and smallholdings* (Report No 1 of 1999, compiled by Supt J.C. Strauss)

<sup>9</sup> He also made verbal submissions to the Committee - see p 210.

## SAFEGUARDING PROPERTY

### Fences and signs warning against trespassing on the farm

This may sound petty, but from a criminological point of view signs indicating territorial ownership of property are important.<sup>10</sup> Warning signage brings to the attention of an intruder that he is entering private property, that security measures are in place and that trespassing will entail sanctions. It serves as an indication to potential troublemakers that the people who live there care for their property and safety, and that they are vigilant and willing to defend property, life and limb. The same applies to warn intruders that there are dogs guarding the property. All other things being equal, the criminal will choose the target without the warning signs, since it appears less risky.

Related to this is the requirement that the property should have a properly maintained boundary fence. It also sends out a strong signal to the potential intruder to keep out. Yet especially smallholdings tend to neglect this aspect. In areas where vandalism is rife, keeping the fence in good repair may be very difficult, yet it is necessary to do so if at all possible.

### Safeguarding farm roads and gates

Some farm attacks take place at gates and other places where the victim has to stop or slow down. Usually the attackers would lie in ambush and surprise the victim. Such an ambush may take place either when the farmer is leaving or upon his return to the homestead. Most of these attacks are also robberies, the most popular items stolen being firearms, money, cellular telephones and, very often, the vehicle itself. In a few cases revenge seems to have been a motive, but even there robbery was also committed.

During 2001 only some 3.7% of all farm attacks were of the kind described above, but although the frequency of this type of attack is not very high, they are usually very dangerous, often resulting in the death of the victim. The attacker has to disable his victim, and he also has to have time to make his get-away. He assumes that the victim is armed, so the latter is often shot without any hesitation. This type of attack is also usually carried out when there is only one person in the motor vehicle. It therefore is a particularly dangerous form of farm attack and one that should be guarded against as much as possible.

In the Botes case study<sup>11</sup> the victim was ambushed at the farm gate when she was on her way to work in town. Her assailants knew her movements and when they could expect her. They lay in waiting in the tall grass next to the road before jumping up and overpowering her. She was killed and robbed of her vehicle and other valuables. There are several other examples as well. In another case study<sup>12</sup> the farmer's wife was on her way to church when she had to slow down for a hole in the road near a gate. There were two men standing next

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<sup>10</sup> See Crime Information Analysis Centre *Identifying and addressing farm attack risk factors* (compiled by Insp P.d.J. Cronjé, Eastern Cape, 2001)

<sup>11</sup> See p 61.

<sup>12</sup> See p 127.

to the road, and the one simply shot her. Luckily the shot only went through her arm and she was able to race away.

Areas in the immediate vicinity of gates or places where potential attacks may take place should be cleared of shrubs and trees and even tall grass that may hide attackers. If the area is still considered unsafe, the farmer should consider installing a motor-grid so that it is not necessary to stop. Special attention should be paid to suspicious persons in the vicinity of the gate. If there are any, he or she should be ready to take defensive or evasive actions. It may even be necessary to turn around or to drive straight through the closed gate – it may save his or her life.

### **Security fence around homestead**

It was found that 50.7% of the farms attacked during 1999 did not have a fence and gate around the house, let alone a security fence.<sup>13</sup>

From a criminological perspective a proper security fence (with a securable gate) is important. It not only puts the area around the homestead out of bounds for strangers, but it is an important first line of defence against criminals, because it will increase the real and the perceived effort needed by the criminal to reach the house.<sup>14</sup> It not only makes it difficult for an intruder to get in, but it may also make it difficult for him to make a quick escape if things turn sour. The fence can either enclose the farmyard or merely the homestead.

For the fence to be effective, however, access control must be exercised throughout the day. The gate is therefore as important as the fence and if it is left unlocked, it is quite useless. This may be very difficult if the farmyard is enclosed because workers have to move to and fro all the time, and it may be better to concentrate on the homestead. If the gate also provides entry to a motor vehicle, it may be dangerous to stop and get out of the car at night, and it may be better to have a remote control system.

Obviously a security fence and gate can be very expensive items. The best type from a security point of view is an electrified fence. This should not be the type that can kill or injure people, but rather one that is linked to some form of alarm. It is pointed out that this type of fence may be cheaper than the standard security fence, which may be snipped in any case even if it is of the razor wire type. Vegetation around an electrical fence needs to be controlled to prevent a short circuit. Trees and other objects that may enable an intruder to jump over the fence, whether electrified or not, must be removed.

The reality, however, is that some people simply cannot afford a security fence. But some fence is better than no fence at all. An ordinary fence can also serve a useful purpose, even if it can be scaled by an intruder. It can, for example, serve the purpose of controlling the watchdogs inside. The actual height of the fence or the nature of its structure is then not as important as its ability to keep the dogs inside. It has been argued that even if one has the best guard dogs, they are worthless if they can be lured away from the home in any way.<sup>15</sup>

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<sup>13</sup> See p 282.

<sup>14</sup> See Crime Information Analysis Centre *Identifying and addressing farm attack risk factors* (compiled by Insp P.d.J. Cronjé, Eastern Cape, 2001) p 12.

<sup>15</sup> *ibid*

It is true that even the best security fence and gate cannot always be effective. There has been at least one farm attack where the intruders dug underneath a perfectly good security fence to gain entry, and the farmer was killed. If the system is combined with other safety measures such as dogs or security lights, however, it can be extremely effective.<sup>16</sup> If the farmer in question had dogs in the yard, the outcome might well have been different.

### Watchdogs

A good watchdog is one of the most important but also the most underestimated complimentary security resources on a farm. It hardens the target, acts as a deterrent to intruders, and also serves as an early warning system.<sup>17</sup> Yet in some 60% of all farms attacked during 1999 and 2000 there were no or inefficient watchdogs.<sup>18</sup>

Watchdogs are probably the cheapest form of security, because many people have dogs in any case. They can not only serve as an early warning system that something is amiss, but if properly trained, they can attack the intruder and protect their owner. In an article in the *Landbouweekblad*, it is said that any dog is suitable to be trained as a watchdog.<sup>19</sup> A small dog may not be able to defend its owner well, but it can still detect the presence of intruders. The ideal would be to have two large dogs and two smaller ones, but obviously this is not always possible. The dog should be trained by a knowledgeable person, however. Ideally the owner and the dog should be trained together.

If formal training is not possible because of time and money constraints, a young dog can still be educated to be a good watchdog.

- From a young age the dog should be taught not to bark unnecessarily, but at the same time to praise him when he barks for a good reason.
- He should not be taught to become accustomed to strangers, e.g. persons coming to buy farm produce.
- The dogs should have free access to the house. If the house is off limits for them, they may not enter even if the owner needs assistance inside.
- The dog should be taught to enter the house first when the owner arrives home from somewhere else.
- One large dog can be taught to accompany the owner on the bakkie to protect him.
- The dog should never be punished with a stick, since he will learn to fear such a weapon, even if used by an attacker.
- Dogs should be made accustomed to gunshots, otherwise they will run off at the sound of firearms.

Both Joint Operations and the CIAC refer to the fact that geese could also be utilised as an early warning system.

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<sup>16</sup> See 'Heining en spreiligte is noodsaaklik' *Landbou-weekblad* 2002-08-04.

<sup>17</sup> See CIAC (Eastern Cape) *op cit* p13

<sup>18</sup> See p 366

<sup>19</sup> See 'Hanteer waghonde reg' *Landbouweekblad* 2002-04-12

### **Security lights**

Good lighting is a very effective crime deterrent in any environment, as it increases the risk of an attacker being noticed while approaching the house at night.<sup>20</sup> If there are no watchdogs, it is essential that security lights be fitted. The quality and location of the lights are important, however, as is the fact that they remain switched on through the night.

One may also place movement sensitive lights at strategic points. Not only are they a deterrent to intruders, but they can also warn the farmer of danger. For obvious reasons this type of lighting is not so effective when they can be activated by dogs or other domestic animals. In that case the movement sensors can be attached to the outside fence rather than to the house.

When the farmer is going out and expects to return only after sunset, the security lights should be left switched on. Light sensors which switch the lights on automatically when darkness falls are also useful.<sup>21</sup>

Security lighting is probably one of the cheapest security measures available, and there really is no excuse for not having any.

### **Burglar proofing**

Obviously a house with proper burglar bars is far more difficult to enter than a house without them and all the security agencies stress their importance.<sup>22</sup> Yet some 53.2% of all farm houses attacked during 1999 and 2000 did not have effective burglar proofing. In the Eastern Cape survey some houses had some burglar bars, but not in front of all the windows. There were several cases where entry was gained through an unguarded bathroom or toilet window at the back of the house.

Ideally the burglar bars should cover not only the opening windows but all windows. When the owners are not present, and sometimes even when they are present, farm attackers have no qualms about breaking any window to gain entry to a house, irrespective of whether it can open or not, as unlike urban homes, the sound of breaking glass is irrelevant.

If there are no burglar bars covering all the windows, some alarm system is essential.

### **Security gates at the door**

Some 55.7% of the houses attacked during 1999 and 2000 did not have security gates at the doors at all.<sup>23</sup> Security gates at the doors serve the same purpose as a security fence, but they are even more important since a breach of security at this point leaves the victim with less reaction time. The importance of security doors and gates is also emphasised in the

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<sup>20</sup> See CIAC (Eastern Cape) *op cit* p18

<sup>21</sup> Crime Information Analysis Centre *Attacks on farm and smallholdings* 1999 (compiled by Supt J.C. Strauss)

<sup>22</sup> See 'Hou boosdoeners uit die huis' *Landbouweekblad*. 2002-04-26

<sup>23</sup> See p 366

Landbouweekblad articles and by the CIAC.<sup>24</sup> Again, like the front gate, an unlocked security gate is as useless as no security gate at all.

The security gate serves two purposes: it not only protects the door from being opened with a key or even by breaking it down, but it also protects the occupants of the house when they have to answer the door bell. In a case in the Eastern Cape, someone knocked on the door. The housewife thought it was the domestic worker, but when she opened the door she was overpowered by an attacker.

It is also strongly advised that bedrooms be shut off from the rest of the house by means of security gates or at least locked doors.

Control over keys should be exercised and keys hanging on a key board should not be labelled.

### **Alarm systems**

The *Landbouweekblad*<sup>25</sup> described an alarm system as an indispensable component of the farm security system, the absence of which can render all the other safety measures useless. That may be overstating the case, but there can be no doubt that an alarm system can be very effective.

There are two basic types of alarm systems. The one is the stand-alone system, which may switch on lights or set off a siren. The other is the monitored system, which is linked to a security firm or neighbouring farms, with an armed response capacity which can react to the alarm. Research has shown that regardless of the large number of false activations, an alarm system is one of the most effective crime deterrents in an urban environment. Although its effectiveness might diminish with the bigger distances in rural settings, the monitored alarm, as opposed to a stand-alone system, is still an important security measure.<sup>26</sup>

Capt. Cronje is somewhat critical about the stand-alone system on the farm. The Committee is not so sceptical. Even if it merely sets off a siren, that in itself may cause the intruder to run away, as will be seen from the case study referred to below. It may also alert the other people nearby, such as farm workers or even the neighbouring farmer.

The alarm may be activated in various ways. There may be an infra-red eye, placed in strategic places in the house, to detect movement. There may be magnetic contacts at the doors and windows. There may also be sensors to detect shattering windowpanes. The alarm may also be linked to the electrified security fence around the house. Finally, one or more panic buttons installed at strategic points, e.g. at the front door or next to the bed, is essential. The *Landbouweekblad* article refers to a case study where the couple were overpowered immediately after entering the house and disarming the alarm. The husband was shot twice but the wife managed to push the panic button, causing the attackers to flee. It saved their lives.

<sup>24</sup> See 'Hou boosdoeners uit die Huis' *Landbouweekblad* 2002-04-26

<sup>25</sup> See 'n Alarmstelsel is goud werd' *Landbouweekblad*, 2002-07-05

<sup>26</sup> See CIAC (Eastern Cape) *op cit* p 17..

Some alarm systems have been developed specifically for farms. The Transvaal Agricultural Union formed the Bobaas Security Service, which has developed a very sophisticated system with various safety features.

During some farm attacks attackers break into the homestead on the farm while the farmer and his family are out. The attackers then wait undetected in the house for the farmer to return, when he would be ambushed and overpowered as he enters the house. This may happen typically on a Sunday morning when the farmer and his family attend church in town, although it frequently happens during the week as well, e.g. when the farmer is out to work or has gone in to town on some business.

The reason why this happens may be that the intruders believe there is money hidden away somewhere, or cannot open the safe to get to the weapons that they believe are there. They then need the farmer to show them where the money is or to open the safe. This type of farm attack often is very violent. The attackers may torture the victims because the victims refuse to cooperate or because they are not being believed that there are no money or weapons. Furthermore, the victims are often killed under these circumstances.

It is therefore clear that a farmer and his family are very vulnerable on their return home. They enter the house not suspecting anything wrong, and are then overpowered. Obviously the presence of dogs may not only be a serious deterrent to would-be intruders, but their behaviour may also warn the farmer on his return that something is amiss. As we have seen above dogs are almost indispensable guards on any farm. Unfortunately there are examples where there were dogs on the farm and the intruders managed to gain entry to the house in spite of the dogs. If the dogs are killed or poisoned, it would immediately put the returning farmer on his guard. The dogs may be drugged, however, and their behaviour not so out of the ordinary as to draw the attention of the farmer. Other precautions should therefore be taken as well.

One solution that may be very effective would be some alarm system to warn the farmer that there are intruders in the house. There are some alarm systems available that would serve this purpose. Some are expensive to install and to maintain, such as those sending a radio signal to a control point that will elicit a response from an armed security guard. Obviously these systems can only be used in certain areas, and may be more suitable on smallholdings than on farms. Other alarm systems are more simple and cheap, such as a siren, which may in itself scare off the attackers, and attract the attention of employees on the farm or even alert the neighbours, if they are near enough.

A system that the Committee believes will not only be relatively cheap but also very effective, would be a silent warning to the farmer outside that there is someone in the house. This may, for example, be a light that the farmer switches on when he leaves, and that switches off when the alarm is triggered by an intruder. This will enable the farmer to escape or to summon assistance. The intruder may be unaware that his presence has been detected but if he is alerted as well, it does not matter. The Committee does not know whether such systems are available commercially, but are convinced that it will be possible to manufacture a suitable instrument. It is certainly something that should be investigated by the relevant authorities and by the farmers' societies, and the necessary advice given to the farmers.

## PERSONAL PROTECTION

### Self-defence

As mentioned above, the series of articles in the *Landbouweekblad* have been written with the co-operation of Mr. K. Geldenhuys, a self-defence expert who is in fact a previous world champion in the ju-jitsu discipline. It is therefore understandable that self-defence receives a very prominent place in the articles. Several articles are devoted exclusively to this subject.<sup>27</sup> There can be no doubt about the expertise of Geldenhuys. Various self-defence techniques are explained clearly and understandably in detail, and the Committee is of the view that, if applied correctly, these techniques may well be life-saving measures. Some of the techniques do not require great physical strength and are such that they may be utilised by females and elderly people alike.

The Committee has serious reservations, however, whether self-defence of that nature should normally even be attempted by anyone who is not thoroughly trained, unless it is a matter of life and death. If self-defence is not applied effectively, it may well be counter-productive and result in serious injury or even death to the victim. The techniques can usually only be mastered properly by receiving training from an expert, and then by practising the techniques thoroughly. The Committee therefore advises potential victims to undergo such a course in self-defence.

No doubt circumstances may arise that make it necessary for the victim to fight for his or her life, whether he or she may have mastered any of the self-defence techniques or not. Often there is some reason why the attacker wants to kill the victim: he may not want to be recognised, or he may require time to make his get-away. In other cases victims seem to have been killed for no rhyme or reason. Either way, the victim must do what he or she can to survive.

There are many cases where the attacker was fought off with firearms or any other weapon that came to hand, and there are examples of remarkable bravery being shown by victims, both young and old. Sometimes the attacker is shot by the farmer, himself perhaps heavily wounded, and in one instance the attacker was actually stabbed with a knife by the wife of the farmer with whom he was engaged in a life and death struggle. (The attacker later succumbed to his wounds.)

Farmers should also learn basic first aid techniques.<sup>28</sup> First aid is not difficult to learn and many institutions supply free pamphlets and even give free training. Similarly, each household should have a first aid kit for emergencies.

### Firearms

Obviously a handgun can be carried for personal safety, provided that one knows how to use it and, more importantly, only if one is psychologically prepared to shoot someone and

<sup>27</sup> See 'Sielkundige voorbereiding noodsaaklik' *Landbouweekblad* 2002-10-25; 'Self-verdediging is soms al uitweg', *Landbouweekblad* 2002-11-2; and 'Basiese tegnieke kan lewe red' *Landbouweekblad* 2002-12-06.

<sup>28</sup> See 'Basiese kennis kan 'n lewe red' *Landbouweekblad* 2002-08-16.

possibly kill in self-defence.<sup>29</sup> If one is not proficient in the handling of firearms, one should receive training to do so or otherwise get rid of the weapon.

The Act on Arms and Ammunition, No 75 of 1969, and the Act on The Control of Firearms, No 60 of 2000, require that weapons must be safely stored by the owner.<sup>30</sup> A strong safe which meets certain standards is required. The safe has to be secured to the wall and/or the floor. A simple metal box is not sufficient. Except for weapons for self-defence, moving parts and ammunition for firearms should be stored separately from the weapons themselves.

If the firearm is intended for personal self-defence it is not of much use when locked away. It should be carried on the person. The farmer and his wife should arm themselves when they leave. Note, however, that if the weapon is not carried on the person it must be safely locked away. If it has to be left in the car temporarily, it still has to be safely stored. The owner must take all reasonable precautions, preferably locking it away in the boot of the car without attracting attention. It may be necessary to install a safe in the car, which must also meet with certain stringent requirements.

If the farmer leaves for an extended period of time, all other firearms may be left in the custody of the police, if there is any possibility of their own safe being opened or removed. The law also provides that a licence holder may also another's weapon, provided that he has the written authority of that other person. The particulars of the owner, the caretaker, the firearm and the time for which the weapon must be looked after, are required.

The important question obviously is under what circumstances a firearm can be used by the victim of a farm attack. There can be no doubt that a farmer can protect himself and other persons against a farm attack by any means necessary to do so, including the use of firearms. The following requirements must be complied with, however:

- The attack must be aimed at a person, not property.
- The attack must have begun or be immediately imminent.
- No more violence than is necessary may be used to stop the attack.
- The violence may only be directed towards the attacker, not an innocent bystander.

The golden rule, however, is always to use the minimum force reasonably required and reasonably available under the circumstances.<sup>31</sup> There must also be a measure of balance between the harm suffered or likely to be suffered by the victim. This does not mean that a weapon can only be used to avoid being killed. If there is no other way to avoid being seriously injured or raped, then shoot, and even kill, if necessary.

The right to kill someone when making an arrest has recently been severely restricted by the Constitutional Court. A person may only be killed during an attempt to arrest him if he is reasonably being suspected of having committed a crime of violence, and even then all efforts should be made not to kill him. Furthermore, if he can be arrested later, e.g. where he is known to the person trying to arrest him, he may not be shot. In fact, the law in this regard is so complicated that it may be better for a person not to shoot at somebody merely

<sup>29</sup> See CAIC report no 1 of 1999 p 17.

<sup>30</sup> See SAPS et al *National guidelines for protection of farms and smallholdings*, p25.

<sup>31</sup> Ibid p 22

for the purpose of making an arrest, unless he or she is well acquainted with the legal requirements. Members of the security forces, commandos and police reservist units obviously have such training.

All this means, for example, that a farmer should not shoot at an intruder, even inside the house, unless he has reason to believe that the intruder is about to attack him or his family. If the intruder simply runs away he should not be shot at. There is, however, nothing to stop the farmer from firing warning shots, as long as they are not aimed at the intruder or in his general direction.

### **Mental preparedness**

One article in the *Landbouweekblad* stresses the importance of mental preparation for the effective application of self-defence techniques.<sup>32</sup> This important article refers to the state of shock that overpowers the victim of a sudden physical attack. It describes the physiological and psychological changes that take place in the victim, and how it can cause him or her to act irrationally or even to be unable to act at all. The right mental approach can reduce the effects of shock during a farm attack, thereby increasing the victim's chances on survival. It requires regular mental training, involving visualisation of crisis situations.

There is another facet of mental preparedness, however. There are many examples of victims both young and old who either resist the attacker even when they are in a hopeless situation or otherwise they aggravate the attacker in some other way. Sometimes such resistance pays off. On the other hand there are also many instances where it is clear that the resistance by the victim probably was the direct cause of his or her death, in the sense that the attacker reacted by killing him. In one instance an aged farmer threw a hammer at an armed intruder. The hammer missed its target, but not the bullet fired by the intruder.

There are also many examples of victims who become aggressive, if not physically then at least verbally. In many cases that was the cause of serious injury or even their death. Many of the farm attackers interviewed state that the verbal abuse or other aggressive language caused them to become aggravated and cross.<sup>33</sup> In his submissions to the Committee on 2001-06-19, Col Barry Schoeman refers to a remarkable case where a tape recording was made by chance of the conversation between an elderly woman and the man who attacked her and her husband. What happened was that the woman was busy making a tape recording of something else when they heard a noise on the veranda. When her husband went outside to investigate, he was overpowered and forced into the house. A conversation between the attacker and the wife then followed which could only have led to the attacker being more aggressive.

Some of the prosecutors and investigating officers interviewed were of the view that it is often the elderly people who are most upset by the intruder. Most of the victims of farm attacks are white, while most of the attackers are black, which gives a racial aspect to the problem of farm attacks. Many of the elderly victims grew up under a dispensation where a black person was not allowed inside their homes, unless it was as a domestic servant. It is almost unavoidable that they may say the wrong thing when they are confronted by a

<sup>32</sup> See 'Regte ingesteldheid kan slagoffer red' *Landbouweekblad* 2002-10-2

<sup>33</sup> See p 198.

black, armed intruder, who may threaten them, order them about and even hurl insults at them.

The Committee is also of the view that mental training is as important as physical training when it comes to self-defence techniques. However, the Committee feels that there is an equally great need for the training of farmers and other residents on how to handle a situation where it would be wise not to resist or to try to exercise any of the self-defence techniques. In perhaps the greater majority of cases it would be better to submit to the demands of the attacker. Very often the attacker is armed with a firearm or other dangerous weapon. For the average person it would be simply too dangerous to put up a resistance. Furthermore, there are usually more than one attacker and, as is recognised in the *Landbouweekblad* articles, it is very difficult for an individual to defend him or herself.

Elsewhere reference is made to the fact that security guards are less likely to be injured or killed during a cash-in-transit robberies than farmers during a farm attack. It is remarkable, bearing in mind that cash-in-transit robberies are commonly perceived to be extremely violent.<sup>34</sup> Part of the reason for this may be the fact that security guards receive specific training on how to handle such situations, not only in terms of defending themselves physically, but also how to handle the mental aspect. That training is non-existing as far as farmers are concerned.

The police and other organisations often give advice to potential highjacking victims. They should try to remain calm; they should never offer resistance; their hands should be visible to the attacker all the time; they should not make sudden movements; they should get out of the vehicle slowly and do what the attacker says; they should hand over the keys; they should not look at the attacker unnecessarily or create the intention that they want to be able to identify the attacker later; etc. The same type of advice should be given to potential farm attack victims.

The booklet 'National guidelines for farm and smallholding security' (p 15) gives advice on what to do in case of a farm attack:

- Do not panic but rather try to think clearly.
- Make alarm or summon assistance as soon as possible, even if it may later prove to have been unnecessary.
- Do not go looking for the intruder, especially not outside; if you are in a room, rather lock the door.
- Do not try to arrest the intruder or offer resistance unless you can do so effectively.
- However, if circumstances are such that you have to protect yourself, do so by whatever means possible and do not hold back.
- Evaluate the situation and think how you can escape or summon help. Do not try to escape unless you can do so effectively.
- Do not talk or behave aggressively towards the attacker, even if provoked. Rather try to talk him into leaving.
- If the attacker demands the keys to the safe or vehicle, hand them over without resistance.

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<sup>34</sup> See p 335.

- If you have already summoned help, tell the attacker and show him the radio or alarm.
- Try to note the clothing and other features of the attacker for later identification, but do so unobtrusively.

### **Alertness**

Alertness is absolutely free, but of all safety measures it is probably the most important. The reason is that each safety measure has its own limitations – they can never provide complete protection. Furthermore, half of all farm attacks occur or is initiated outside the safety of the home. Often the farmer or his wife will be unarmed and there will be no dogs around. The only thing that can protect them from disaster may be their attentiveness.

There are several farm attack cases where the farmer or the wife went outside, even at nighttime, to investigate a noise, and they would then be attacked. In the case mentioned above, the farmer went out to investigate a noise on the veranda when he was overpowered. In several ambush cases, the intruders entered the house by breaking a back window in the absence of the owners. If the latter had noticed the broken window they might not have become victims.

The Committee can cite case after case where a little attentiveness might have averted the tragedy that followed. In one of the case studies the Committee undertook, the dogs had been barking all night. The next morning the farmer, unarmed, went up the nearby hill to investigate a strange fire. He was killed and his wife was killed minutes later.

### **Arriving at and leaving the farm**

As said above, farmers are especially vulnerable when leaving or arriving back on the farm. Many farmers are attacked when they stop or park their vehicles, and many are attacked by intruders who are being surprised inside the house or who may be waiting for the farmer in an ambush.

Farmers should know the state of the farmyard and house when leaving, and take note of any changes upon his return. The behaviour of the dogs may betray the presence of strangers or may indicate that they have been drugged or poisoned. The farmer can use many items to indicate tampering, such as the position of a lock.

External lighting is important. At night the farmer should have a good torch light. The farmer may drive or walk around the house to look for signs of entry such as a broken or open window.

### **Safety habits**

Safety procedures are a matter of habit. They are free of course and they need not be elaborate. The booklet 'National guidelines for protection of farms and smallholdings' offers many safety tips.

When at home watch out for:

- Strangers visiting the farm on some pretext, or wandering around in the vicinity.
- Strange vehicles in the area.
- Strange behaviour or uncommon barking by the dog.
- The unexpected death of a dog.
- Signs of the presence of trespassers, such as tracks, fire places or empty food cans.
- Possible signals left by prospective attackers for their accomplices, e.g. a bottle on the gate post or a plastic bag tied to the fence.

When answering the door:

- Grown-ups should answer the door.
- Make sure the security gate is closed or at least that the security chain is in place.
- Do not open the door fully and do not stand in the door opening.
- The person outside should be identified before opening the door and especially before allowing him inside.
- Be wary of persons in uniform and do not be misled by a well-dressed person.
- Documents can be received through the security gate or the letter flap, or with the security chain still in place.

Many victims of farm attacks are really killed for no rhyme or reason. They are often aged and frail, and quite unable to defend themselves against the usually strong young men who attack them. Many of these people are seriously injured or killed, even though they may fully submit and have given all the information that the attackers require. There are cases where the violence is quite gratuitous and unnecessary, and in some cases the attackers seem to wait for the victims and to ambush them with the sole purpose of killing them.

When arriving back home:

- Do not get out of the car before surveying the area. At night a torch must be used for this purpose. This also applies when opening the gate for the car or the garage door.
- Take note of anything unusual, such as the garden gate standing ajar or the dogs being uneasy or sluggish.
- Walk around the house to look for signs of intruders, such as a broken window or disturbed curtains.
- Let the dog enter the house first.
- If there is a female present she should remain in the car with the doors locked until everything is safe.

When driving:

- There should be a two-way radio or cellular telephone in the car.
- There should be an inflated spare wheel and basic tools in the car.
- Try not to drive around alone and if possible take a dog along.
- Take a firearm along if you are proficient in handling it.

- If the car breaks down and you cannot fix it, summon help and lock the doors. It may be better to hide outside some distance away, watching the car.

## HIGH RISK FACTORS

Where certain factors are present, the risk of a farm attack increases dramatically.

### Elderly people

There can be little doubt that the aged are very vulnerable to farm attacks.<sup>35</sup> Their senses are not as sharp any more, and they are frail and cannot defend themselves. They are injured more easily and they often suffer bone fractures and similar injuries. Many of them are poor and do not think they will be attacked. They are usually religious and believe that the Almighty will protect them. They often live alone on the farm after their partner has passed away. Some have become quite fatalistic, not caring what happens to them. Most importantly, many of them grew up on a farm and in a virtually crime free era and cannot visualise themselves being attacked.

This vulnerability is borne out by the statistics. During 2001 some 3.1% of all victims were under 20 years of age, 16.3% were between 20 and 39 years, 18% were between 40 and 59 years, 13.1% were between 60 and 79 years and 1.8% were 80 or over. This means that 46% of victims were 50 years or older and 28% were 60 or older. The percentages vary from area to area, however. The Eastern Cape, for example, there seems to be a higher ratio of elderly farm attack victims. In fact, half of the victims of farm attacks in the Eastern Cape Karoo are older than 50 years. In the Eastern Cape survey the age of the person who was head of the household was used as the determining factor, since that was the person who would normally make decisions concerning security. For the purpose of the report they were divided into groups of persons younger than 60 and persons who are 60 or older.

The fact is that in many areas it is extremely dangerous for aged people to live alone on a farm or smallholding. In the Eastern Cape one elderly couple (the husband is 83 years of age and the wife 74), have been attacked no fewer than six times over the last few years. They live near an informal settlement, they have little security and they are hard of hearing.

If possible, therefore, elderly people should be persuaded to move to a safer environment. It must be accepted, however, that many do not have the financial resources to move. In some cases, because of the vulnerability to farm attacks and land-invaders, the market value of the farm has decreased to such an extent that it cannot be sold economically any more. Some have bought the farm or smallholding as a retirement home, and they have no reserves to make another change. Some who bought the property when it was completely secluded, now find that it is flanked or even invaded by informal settlements. One has to accept that some cannot afford expensive security systems, but it is sad to see how many elderly farmers have little or no security at all.

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<sup>35</sup> See 'Bejaardes `n maklike prooi' *Landbouweekblad* 2002-03-29

### Solitary residents

Like elderly people, persons living alone are especially vulnerable to farm attacks.<sup>36</sup> Very often the farmers living alone are also aged, perhaps having lost their wives and not wanting to move. Some widows also live alone.<sup>37</sup> In 19% of the farms visited in one survey, there was a female on her own.<sup>38</sup> However, the solitary may be attacked irrespective of their age. Furthermore, he or she is at risk even with very good security systems in place. Bachelors, widows, widowers, divorcees, hermits, single farm managers and farm guards are often specifically targeted by farm attackers.

Very often, even when there is more than one person living on the farm, the attacker would wait for one to be alone before striking. This applies especially to women who are being left alone on the farm. In almost half of those cases where the woman was found to be alone on the farm the doors and gates were standing open as well. In some interviews the attackers said that they had waited specifically for the husband to leave before attacking the wife. In one case the couple had decided that one of them should always be on the farm because they had not installed proper security systems yet. The attackers knew of this practice and waited till the wife was alone.<sup>39</sup>

### Farm stalls and shops

Experience has shown that a farm stall or shop is an open invitation for a farm attack, often with tragic results.<sup>40</sup> Robbers know that there is likely to be money in the shop or stall, and they have no difficulty in gaining entrance under the pretext of being a customer. Many security measures are irrelevant and there are often ample opportunities for the robber to catch the shop attendant off-guard. Yet some security measures, such as security bars separating the shop attendant and the customers, can be implemented. It should also be borne in mind that the shopkeeper is particularly vulnerable when he opens or closes the shop.

Farmers selling farm products such as milk, meat or vegetables to outsiders are also vulnerable. Sometimes the housewife bakes bread or confectionary to augment the income. This means that prospective robbers have a valid reason to be on the farm, where he can reconnoitre or even carry out an attack right away.<sup>41</sup>

Investigating officers in the Northern Cape also refer to the dangerous practice of some farmers of selling liquor or even running a *shebeen*.<sup>42</sup> No doubt it also occurs in other parts of the country. Since the income derived from such practices is usually hot money and dangerous to bank, these farmers are likely to have large amounts of money in the home.

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<sup>36</sup> See CIAC (Eastern Cape) *op cit* p 20

<sup>37</sup> *ibid*

<sup>38</sup> See CIAC *Attacks on Farms and Smallholdings 1999* (compiled by Supt J.C. Strauss)

<sup>39</sup> See the Transell case, p89.

<sup>40</sup> See CIAC (Eastern Cape) *op cit* p 21.

<sup>41</sup> *ibid*

<sup>42</sup> Interview with investigating officers in Kimberley on 2001-10-05

### **Money and other valuables**

Large amounts of money should not be kept on the farm.<sup>43</sup> The farm workers and other residents should know that, in case they are asked by strangers or even intimidated into telling. There are many cases where farm attackers somehow got hold of information about large amounts of money on the farm. The same applies to other valuables, and in one instance the Committee has come across, the attackers were specifically looking for diamonds.

As mentioned previously, farm attacks usually occur randomly on any day of the week, with the exception of Fridays, the probable reason being that wages are often paid out on Fridays. Attacks are often carried out when the farmer or manager is making up the wages. There are several recorded cases where the farmer drew a large amount of money at the bank, e.g. to pay wages, and was then followed back to the farm by the attackers and robbed at a gate or when he arrived.<sup>44</sup> Some farmers may find it possible to pay the employees by cheque or to deposit the wages directly into their banking accounts.

### **Repeat victimisation**

Often people think that because they have been attacked once it will not happen again. However, research has indicated that persons and businesses victimised once have a greater risk of falling victim to crime again.<sup>45</sup> This may be the result of the success of the initial crime, which cause the criminal or other who have heard about it to try again, or it may be because the initial crime has left the place more vulnerable, e.g. where a broken window has not been replaced.

It may also indicate that the person or place victimised is at high risk and that the security measures are not adequate. In the case of an elderly couple who were attacked six times within the space of a few years, the security measures on the smallholding were non-existent. The husband had a firearm, but he was robbed of it at least three times. Although they lived a very modest life, it turned out after their deaths that they were well-to-do people who could afford a good security system. The surprising aspect of the case is that they died of natural causes.

It is also a feature of repeat victimisation that the subsequent crimes may become progressively more serious than the previous ones.

### **Proximity to major roads, railway lines and criminal areas**

In his report, Capt. Cronje also identifies the danger in a farm being situated near a place that may be a breeding ground for criminals, or near a major arterial road or a railway line.

The proximity of areas in which large numbers of criminals may reside is a large risk factor. The role that townships, informal settlements, former homelands, trust land and other areas where the social structure of society has been eroded, play in crime in the

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<sup>43</sup> CIAC *op cit*

<sup>44</sup> See cases referred to on p 51.

<sup>45</sup> See CIAC (Eastern Cape) *op cit* p 10.

traditional commercial agricultural sector has already been well established by other research. Such areas have distinctive social and physical characteristics that support criminal life styles. Furthermore, farmers represent the only relatively wealthy targets for criminals in the rural areas.

Farms situated near main roads are exposed to far more preying eyes looking for criminal opportunities. Research has shown that criminals prefer shorter trips to crime targets rather than longer ones. It also makes for a quick and safe escape from the scene of crime.

Similarly a railway line may pose a threat. The deterioration of the railway system has led to large- scale vandalism and theft of railway property, creating a focus point for criminal activity right on the doorsteps of neighbouring farms. The farmers also do not know, and have no control over, the persons who live or walk on railway property.

### **Communication**

In very many farm attacks the telephone lines are cut. It is therefore essential that farmers should have other means of emergency communication, apart from the landline telephones, so that contact can be made with security agencies, security firms or neighbouring farms. In the 1998 Eastern Cape study, it was found that 83% of the farmers in a specific region had some alternative means of communication: 56% had a short wave radio, 26% had a marnet or nearnet radio system and 15% had a cellular telephone.<sup>46</sup>

No device has had a more favourable impact on the safety of vulnerable persons than the cellular telephone, both in cities and in the country, at home and on the road. Persons at risk should therefore be encouraged to have a cellular phone on them all the time. It can store emergency numbers which can be dialled immediately. It is an expensive means of communication, but some “pay-as-you-go” cellular phone contracts are relatively cheap if used only for emergencies. Unfortunately, many farms in isolated areas do not have cellular phone reception. Nevertheless it may still be useful while travelling to and from the farm.

### **Battle indicators**

These are signs next to the road leading to the farm, placed there by the would-be farm attackers or their accomplices to indicate the way to the particular target or to indicate whether it is propitious to carry out the attack. They may be a branch placed at an odd angle next to the road, a cold drink bottle placed on a fence post, a plastic bag tied to a bush, etc.

There is a difference of opinion amongst the security forces (police and military personnel) as to either the reliability of battle indicators as a sign of an impending farm attack, or of the frequency at which they are being used. Some investigating officers absolutely scoff at the idea, while others have been converted after seeing some examples. It is obviously something that will usually be utilised by gangs perhaps operating in separate units, whereas it is clear that the greater majority of farm attacks are not carried out with this degree of planning and preparation. Furthermore, even if the farmer notices something

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<sup>46</sup> See CIAC *op cit*.

odd, it may turn out to be completely innocent. Nevertheless it is not something that should be ignored.

These signs may be difficult to detect. Most farmers, however, know every piece of the road to the farm in detail, and he usually notices anything unusual immediately – a branch next to the road at a place where there are no trees, a cold drink can perched on top of a pole, perhaps with sand inside to prevent it from being blown off.<sup>47</sup>

### **Farm workers and other employees**

Unfortunately it sometimes, although fortunately not often, happens that farm workers or previous farm workers turn into farm attackers. In some cases this may be, at least partly, the result of bad relations between the farmer and the worker. In other cases, however, the motive of revenge can be completely excluded: the farm worker simply turns out to be a criminal. It is therefore essential that the farmer makes certain about the persons that he employs. The employment of foreigners without the proper working documents is especially dangerous. That may be a high risk factor.

Farm workers themselves are often the target of farm attackers. They may get attacked while working at the home of their employer. This would typically be a domestic employee who is overpowered in the house. Farm workers also get attacked in their own homes, either to rob them directly or to facilitate the robbing of the main homestead. Even if they do not get attacked themselves, a farm attack on their employer may be a very traumatic experience for them as well.<sup>48</sup>

Apart from that, the involvement of the farm workers is essential for the safety of the farmer and his family as well. They not only can be an important link in the security network that can prevent farm attacks, e.g. by providing information on strangers in the vicinity, but they can summon help or render assistance after an attack on the main homestead. This means that they should also be treated in such a way that their loyalty is ensured. Good labour relations are therefore essential.

Farm workers have many problems of their own. Apart from the threat of a farm attack, they also have to deal with other crimes affecting them especially. These are mostly social fabric crimes, such as murder, rape and serious assaults, which are often the result of the socio-economic situation. Many also have a constant fight against poverty. It is in the farmer's interest to look after the general well being of the employees.

Many victims of farm attacks are really killed for no rhyme or reason. They are often aged and frail, and quite unable to defend themselves against the usually strong young men who attack them. Many of these people are seriously injured or killed, even though they may fully submit and have given all the information that the attackers require. There are cases where the violence is quite gratuitous and unnecessary, and in some cases the attackers seem to wait for the victims and to ambush them with the sole purpose of killing them. In other cases, however, there may be a rational explanation for the violence. The attackers may feel it is too dangerous for them unless the victim is disabled or even killed. They

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<sup>47</sup> If a farmer is uncertain about a possible 'battle indicator' he can contact Col Barry Schoeman at the SANDF, telephone no (012) 355 3024

<sup>48</sup> See p 144.

want to make their get-away without being caught, and they may feel that the victim may raise the alarm too soon. Finally they also do not want to be identified later by the victim.

## CHAPTER 17

### THE NATURE OF TRAUMA AND ITS TREATMENT

#### INTRODUCTION<sup>1</sup>

The financial impact of farm attacks on the farming community is tremendous. According to surveys conducted by Agri SA, where a farmer is killed, it will take 18 months on average for the farm to become productive again.<sup>2</sup> In the process the livelihood of a great many people – the farmer, the farm workers and their families – is affected by such an attack. Even if the farmer survives, the effects may still be catastrophic. If the situation is too dangerous, the farm may well have to be abandoned altogether, which seems to happen especially if elderly people are attacked. Even if the farmer stays on, the attack may still have long-term repercussions. In one of the case studies the farmer lost a hand in the attack, while in the other the farmer was left with a motor neuron disability.<sup>3</sup> Even the direct financial implications may be devastating: one of the farmers in the case studies had medical bills amounting to R140 000.<sup>4</sup>

Yet the impact of farm attacks on the psyches of the victims can be equally catastrophic. In the chapter on ‘The victims of farm attacks’ the traumatic impact of farm attacks on victims is illustrated by way of actual case studies.<sup>5</sup> The cry for help expressed in the email the Committee received from ‘Jana’, clearly highlights the need for counselling facilities in the rural areas.<sup>6</sup> In spite of this great need, however, victims of farm attacks (and victims of crime in general) usually do not have access to counselling service providers. Jana’s e-mail also shows how abandoned victims feel and how great their need for support in difficult periods. If left unassisted they carry the effects for years after having experienced the traumatic event.

Because this aspect of farm attacks has been neglected to such a great extent in the past, the Committee decided to deal with the matter in some detail. A brief description of trauma is required first, however, in order to understand its impact on victims of farm attacks and the importance of seeking trauma treatment after such a traumatic incident.

#### THE NATURE OF TRAUMA<sup>7</sup>

Trauma is not a new phenomenon, but is as old as human kind. There are numerous accounts of trauma and its effects in many early historical writings. However, emotional trauma as a concept has only been properly identified over the last approximately 20 years.

<sup>1</sup> This chapter is largely based on a memorandum prepared by H.C. van Wijk, Manager of the RAU Trauma Centre until June 2002, who is also a member of the Committee.

<sup>2</sup> Oral submission by Mr K. Visser, Director of the Governmental Services desk at Agri South Africa, to the Committee on 2001-07-04.

<sup>3</sup> See the case of T, p 130

<sup>4</sup> See the case of U, p 135

<sup>5</sup> See the case of W, p 144

<sup>6</sup> See p 147

<sup>7</sup> For an overview, see <[www.wramc.amedd.army.mil/departments/socialwork/provicer/dmhs.htm](http://www.wramc.amedd.army.mil/departments/socialwork/provicer/dmhs.htm)> :*Department of Veterans Administration Disaster Mental Health Manual*

Prior to that, what we know today as emotional trauma was referred to as hysteria, nervous shock, the great neurosis or war neurosis and even as late as the Vietnam war, the effects of traumatization was still considered to be signs of weakness and even malingering.<sup>8</sup> In the 1970's, however, there was an increasing awareness that soldiers who had survived long-term abuse while in captivity were post traumatic stress victims, although it was not until 1980 when, through the efforts of combat veterans, the common symptoms seen in rape victims and abuse survivors alike, were recognised. Post traumatic stress disorder was validated and included in the *Diagnostic and Statistical Manual of Mental Disorders* (the DSM) of the American Psychiatric Association.<sup>9</sup>

### Definitions of trauma

In the DSM4 it is said that a person is traumatised when exposed to a traumatic event in which both of the following have been present:

- The person has experienced, witnessed, or been confronted with an event or events that involved actual or threatened death or injury, or a threat to the physical integrity of oneself or others.
- The person's response involved helplessness or horror.

Another early definition is that by Jeffrey Mitchell, in terms of which a traumatic incident is any situation faced by victims that causes them to experience unusually strong emotional reactions that have the potential to interfere with their ability to function either at the scene or later.<sup>10</sup> This can be any type of unusual experience, which disrupts the victim's normal level of functioning and ability to cope.

In terms of the so-called meta-traumatological definition of the International Institute of Traumatology and Crisis Intervention, formulated by Dr P.M. Jones and T. van Wijk in 2001, an individual can be said to be suffering from trauma if he or she has been exposed to an event or events, as a result of which that individual's coping abilities are rendered dysfunctional and that at least one of the following have been present:

- An element of fatalism ('fatalness'). There must be a form or sense of loss, even if it is not of some physical property like a car, but can be the loss of an abstract attribute such as security or dignity.
- An irrevocable conclusion. There must be an irreversible change of circumstances after the incident, such as the loss of a loved one. Life will never be the same anymore.
- Severe impairment of the normal coping abilities. The usual ways by which the person used to overcome problems, do not work any more. An example is the person who says: 'I am normally very strong, but now I can't stop crying'.

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<sup>8</sup> See Kardinar A. *The Traumatic Neurosis of War* (1941)

<sup>9</sup> The DMS is the most authoritative and universally recognised work of reference in the field of psychiatry and psychology. The latest is the fourth edition, published in Washington DC in 1994 and known as the DSM 4.

<sup>10</sup> Mitchell J. *When disaster strikes, the critical incident stress debriefing process* ( in Journal of Emergency Service Vol 8 No 1, 1983)

The traumatic event may be either situational, where there is only one incident such as, for example, a hijacking or a farm attack, or it may be developmental, where the situation develops over a period of time, such as a divorce or the development of cancer.

Psychic trauma can also be defined as ‘an emotional state of discomfort and stress resulting from memories of an extraordinary catastrophic experience which shattered the survivor’s sense of invulnerability to harm’.<sup>11</sup> Traumatic events are therefore extraordinary, not because they occur rarely, but rather because they overwhelm the ordinary human adaptations to life. Unlike commonplace misfortunes, traumatic events generally involve threats to life or bodily integrity, or a close personal encounter with death or violence.

These events confront human beings with the extremes of helplessness and terror, and evoke the responses of catastrophe. The common denominator of trauma is a feeling of intense fear, helplessness, loss of control, loss of freedom and of impending annihilation.

### **Characteristics of traumatic events**

A traumatic event is characterised by the following:

- There is always an external stressor or event.
- It is sudden. (Even in the case of a developmental event, which stretches over a period of time, the onset is normally very unexpected.)
- People are not prepared for it.
- It is potentially dangerous.
- Normal coping mechanisms of the victim fail.
- During the trauma victims are usually confused.

More specifically, the following event characteristics could be used to identify potentially traumatic incidents: the threat to life, body or health; actual death or injury; discomfort and deprivation; isolation from emotional support; loss of individuality; and disaster related stressors.

In the South Africa context the following are typical traumatic incidents<sup>12</sup>:

- Shooting incidents where an individual has been shot or has shot another person.
- Any other shooting incident where an individual is directly or indirectly involved.
- A suicide or suicide attempt.
- Any physical attack on a person or a family member, friend or colleague.
- Gruesome scenes, for example motor vehicle accidents, hijackings, armed robberies, rape, murder or farm attacks to which the individual is exposed.
- Hostage taking.
- Extreme forms of provocation, for example racially motivated assaults and murder of farmers.

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<sup>11</sup> Jones Dr P.M., Schulz Dr H. and Van Wijk H.C.: *Trauma in Southern Africa: Understanding Emotional Trauma and aiding recovery*. (Traumatology Services International, 2<sup>nd</sup> ed, 2001)

<sup>12</sup> *ibid*

- Any other critical incident that a person reports, for example domestic violence, divorce or intra family murder.

Some farmers – especially white Afrikaans farmers – subconsciously feel guilty about the apartheid past. This feeling of guilt may further compound the trauma.<sup>13</sup>

### **Reactions to trauma**

The reactions to trauma are as universal as the exposure to it. However, it is a complex reaction that affects every aspect of human existence to a certain degree. The responses to stress may be immediate and incident specific; they may be delayed for a period of time after an incident; they may be cumulative, building up over a long period of time; and they may relate to more than one and even many incidents.

The signs and symptoms of a stress reaction may last for a few days, a few weeks or a few months. Occasionally they could last longer, depending upon the severity of the traumatic incident and the trauma treatment. People respond in different ways to trauma and some people suffer more than others. Their history and background, as well as their physical and emotional make-up, will impact on how they react. However, people will experience more or less the same symptoms after a traumatic incident.

One of the most common symptoms is that the traumatised person is rendered ‘numbed’ to life. He or she is not necessarily erratic in behaviour or outwardly violent, but characterised more by an overall ‘flat’ or numb appearance, not caring what is happening around him or her.

There are three basic and instinctive human reactions to a potential threat or stressor, best described by the words fight, flight and uptight<sup>14</sup>:

- **Fight:** This refers to an attempt to deal with the threat aggressively. For example, during the attack the victim will fight back or even start screaming and attacking the perpetrator.
- **Flight:** This refers to the desire to run away or to attempt to escape from the threat. The victim will hide somewhere or run away, not thinking of the consequences.
- **Uptight:** This refers to the inclination to react with agitated anxiety to the threat. The victim will freeze and cannot do anything, not speak, not think, not run away

These reactions emphasise that potential victims do not necessarily have the ability to predict how they are going to react during the farm attack. Because of shock and fear their reactions are based on what can loosely be described as ‘instinct’. (This has important implications as far as the whole question of dealing with a trauma situation, such as a farm attack, is concerned. Mental training may therefore be as important as acquiring self-defence techniques or learning to handle a firearm. This matter is dealt with elsewhere.<sup>15</sup>)

<sup>13</sup> Oral submission by H.C. van Wijk to the Committee on 2001-07-24.

<sup>14</sup> Dr Walter B. Cannon, a Harvard physiologist, coined the phrase ‘flight or fight response’ – see Backus W. *The healing power of a Christian mind* (Bethany House publishers, Minneapolis, 1996)

<sup>15</sup> See p 381.

According to Hans Selye in his book *Stress without distress* (1974), we undergo three phases in responding to a traumatic situation, namely an alarm phase, a resistance phase and an exhaustion phase:

- The alarm phase, in which we shift into high gear, using up our bodily resources at a rapid rate: The body is immediately aroused, and the sympathetic nervous system triggers the release of hormones from the adrenal glands. These hormones increase heart and respiration rate; slow down or stop the activity of the digestive tract, making more blood available to other organs, trigger biochemical reactions that create tension in the muscles; increase energy consumption, which produces heat, increases perspiration, which helps cool the body and increase the release of clotting factors into the bloodstream, to minimise blood loss in case of injury. All these go on without us ever having to initiate them consciously.
- The resistance phase, in which we somewhat shift down from using our resources in a spendthrift manner: The alarm state cannot continue indefinitely, and the body imposes a counterbalance to the sympathetic nervous system's plundering of the body's energy stores. Quite soon, the para-sympathetic nervous system calls for more prudent use of the body's reserves. For example, the demands on the heart and the lungs decline. Physiological stress responses generally decrease in intensity, although they do not return to normal if the perceived stress and/or incident continue.
- The exhaustion phase, in which our bodily resources are depleted: Eventually, even at the reduced rates associated with the resistance phase, the body's reserves are exhausted, its ability to restore damage or worn out tissues is diminished, and its resistance to opportunistic infections (infections that take advantage of a weakened immune system or other vulnerability) decreases.<sup>16</sup>

### **Post trauma reactions**

The post trauma reactions or symptoms exhibited by victims after a farm attack, discussed in the case studies in Chapter 6, are general symptoms experienced in all traumatic incidents. They are therefore not only found in victims of farm attacks.<sup>17</sup> The case studies have highlighted the following reactions:

- Uncertainty about the future. Many of the farmers have been on their farms for over twenty years. They have made an investment in their farms and most of them have no future without the farms. This also applies to their workers who face unemployment.
- A feeling of loss of control. Intruders have simply come from the outside and violated the farmer's physical integrity and property. Survivors may feel that they have lost all control over their environment and themselves and that they are unable to protect themselves or others.
- Loss of security. Survivors experience feelings of vulnerability after a traumatic incident, especially if they perceive themselves not to be effectively coping with the event. They may even fear that the traumatic event or a similar event may happen again.

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<sup>16</sup> See Squire L.R. *Memory and the Brain* (Oxford University Press, New York, 1987)

<sup>17</sup> Jones Dr P.M., Schulz Dr H. and van Wijk H.C. *op cit* p 142 -146

- Loss of meaning in life. One victim said: ‘I feel that there is no reason to go on. I have lost everything, my husband, my home, the farm ...’. It is almost a feeling of ‘What is the point?’ and apathy in respect of life in general.
- Lack of motivation in terms of the future. After a farm attack one mother said that her children had no further interest in their schooling careers. This is in fact a very frequent phenomenon.
- Experiencing secondary fear of death or serious injury. This is the ‘what if’ feeling and thinking. The survivor keeps on thinking back and because of guilt, shame, and fear will say: ‘I should have done this or that and I should not be like this or that’. Many feel responsible for the incident or feel they should have done something to prevent the situation. The farmer might have seen his wife being killed or raped in front of his eyes, and now thinks that perhaps he could have done something to avoid it.
- Fear that the attackers may return. This is the anxiety about the same things happening again. There is confusion and disorientation and the victims may feel that they have so little control over their environment that they are unable to prevent another traumatic event from occurring.
- Feeling insulted and degraded after a sexual assault. The victims may feel that they have lost their dignity. In case of rape there may also be the fear of contracting a disease such as HIV/Aids.
- Loss of a loved one such as a mother, father or spouse. Very common is loneliness as a result of the death of spouse. Often one of an elderly couple is murdered, and the survivor has to face old age alone.
- Fear that the family would be torn apart as a result of a trauma.
- Bitterness and desire for revenge. In the case studies in Chapter ??, one mother referred to the changed attitude of her son and how hardened he had become.
- Immediate financial damage. This may relate, for example, to the loss of a motor car or expenses in connection with the injuries suffered. One of the farmers in the case studies had no medical aid scheme and the hospital refused to treat him without an up-front cash payment.
- Long-term financial worries. The farm may no longer be profitable. There may be worries that there will be no buyers for the farm after an attack, because the possibility of future attacks has scared prospective buyers away.
- Physical trauma. This may be, for example, because of the loss of a limb, or having to use a wheel chair. One farmer interviewed by the Committee had to have his hand amputated; in another case the onset of motor neuron disability was precipitated by the attack.
- Loss of freedom. The victims now live behind a security fence and are afraid to go out at night. There may be a lack of trust in fellow human beings, and there is a fear of participating in life again.

The exposure to traumatic incidents can lead to post traumatic stress disorder. PTSD differs from acute stress disorder in that it is diagnosed only if the prescribed symptoms have persisted longer than eight weeks. These persistent symptoms must include two or more of the following symptoms: difficulty falling asleep, irritability or outburst of anger,

difficulty concentrating, hyper vigilance, and an exaggerated startle response (e.g. when a door slams shut).

The difference between people who develop PTSD from people who were merely temporarily overwhelmed, is that the former become 'stuck' on the trauma, reliving it over and over in their thoughts, feelings or images. It is rather the reliving than the event itself that is then responsible for the behaviour change. The victims may then experience one or more of the following: emotional outbursts, cynicism, alcohol or drug abuse, social isolation or withdrawal, a 'macho' attitude, anger, rage and externalisation.<sup>18</sup>

The above highlights the danger when victims do not deal with the trauma and symptoms directly after the incident but think it will disappear. They suppress the symptoms and emotions and go into a state of denial, with potentially very serious consequences.

### **THE NEED FOR TREATMENT**

The word 'trauma' is derived from the Greek term meaning 'wound'. This meaning provides a graphic image of what takes place in human trauma. When a person encounters a traumatic experience, he or she becomes a wounded individual, and as with all wounds there must be a time of healing. However scarring is often the end result, and the less suitable attention the person receives, the greater will be the scarring.

Through our assumptions about how we think life should operate, we form our own cognitive or mental frame around reality. Inside this frame we place our deepest hopes, expectations, and dreams and we see ourselves having wonderful, successful and meaningful lives. Trauma can, however, break this picture, like a portrait falling off the wall and smashing onto the floor. Suddenly the frame that surrounds the beautiful picture of reality is shattered and in pieces. Previously a self-assured person, the recipient of the news that a husband or wife has died, or has been the victim of a farm attack or rape, finds her or his picture of life suddenly lying in pieces on the floor.

The picture we all have about the way we think our lives should be, is a composite of our operational theories about life and reality. Our assumptions are formed and proved by much of our life experiences. These assumptions are rarely articulated as such or may not really exist on the conscious level at all, but they are always there.

When trauma strikes the assumptions are challenged and become invalid. When something happens that falls outside the frame of our 'assumption world', it throws us into total disarray. The frame cannot contain the picture anymore. The world is then suddenly appears crazy and does not make sense any more.<sup>19</sup>

It is very difficult and often impossible for a person to overcome the effects of trauma on his or her own. It is therefore very important for such a person to have professional guidance in order to explain the symptoms and effect of trauma and to facilitate that person to recovery. Where such a person is treated properly, however, the following positive reactions can be expected:

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<sup>18</sup> Figley C.R. *Trauma and its wake: The study and treatment of Post Traumatic Stress Disorder* (New York, 1985) Vol 1.

<sup>19</sup> Epstein S. *The Self Concept Revisited* (in American Psychologist No 28, 1973)

- There is an increased sense of value. Some have come to see life as more precious and of greater value. It is good to be alive and they feel that life has more meaning and purpose.
- There is a deeper appreciation of family and friends. Some feel that they value their loved ones and their family life much more.
- There is a new sense of achievement. Their own inner strength and resources have been increased. They have more confidence in themselves. Many are surprised by their newly acquired reactions and feelings.

Parkinson states<sup>20</sup> that the benefits of trauma treatment are to:

- Reduce any short or long term distressing after-effects.
- Reduce the incidence of sickness and absenteeism.
- Reduce personal, marital and relationship problems.
- Reduce work related problems.
- Reduce anxieties for anyone who may feel threatened or embarrassed if they had to ask for help.
- Reduce anxieties about stress and traumatic reactions being thought of as a sign of weakness.
- Encourage the knowledge that fellow citizens care and give support.

## NATURE OF THE TREATMENT

### Emotional debriefing

As said above, very often people have dramatic reactions to extraordinary, traumatic events that may leave them feeling overwhelmed and upset. The symptoms and feelings such persons experience are normal reactions to abnormal situations. However, the availability of early trauma intervention may determine whether the majority of survivors will recover emotionally within a reasonable time or be plagued by delayed symptoms in the future. Adequate help in the beginning can encourage functional reconstruction of the defences so that later psychological intervention is less likely to be necessary. Minutes of skilful support and counselling by any sensitive person immediately after a traumatic event can be worth more than hours of professional intervention later.

To this end, 'trauma debriefing' has been promoted as a method, and research has shown a significant decrease in the development of post traumatic stress disorder as a result. Emotional debriefing, as a form of trauma treatment, can be defined as a meeting by a councillor with one or more persons, the purpose of which is to review the impressions and reactions that survivors, helpers and others experience during or after a traumatic incident. It is therefore an emotional ventilation of feelings in a controlled and safe environment.<sup>21</sup>

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<sup>20</sup> Parkinson F. *Post Trauma Stress* (Sheldon Press, London, 1993) p195

<sup>21</sup> Jones Dr P.M., Shultz Dr H. and van Wijk H.C. *op cit* p 157

### **Meta-traumatological treatment model**

To achieve trauma debriefing, the so-called meta-traumatological treatment model has been developed by H.C. van Wijck, then Manager of the RAU Trauma Centre. This treatment model consists of two main phases, viz. the Emergency Trauma Reduction Phase and the Stabilisation phase.

#### *Phase 1: Emergency Trauma Reduction*

The Emergency Trauma Reduction Phase should occur as soon as possible after the traumatic incident, and in any case within 24 hours. It is important to know that no trauma treatment can be administered within the first 24 hours after a traumatic incident, because the victim is still in shock and is not receptive for any counselling. Nevertheless, adequate assistance in the first 24 hours after the incident can provide an important foundation for the functional reconstruction of the victim's ability to immediately commence with the healing process. One of the main effects or symptoms the individual is likely to suffer is the loss of control, and it is therefore very important to start the process of regaining control as soon as possible.

The purpose of the emergency trauma reduction phase is only to support and start the process by assisting the victim to assimilate the trauma experience. The counsellor will do the following:

- Identify major obvious emotions. There may be some immediate expression of anger, fear, blame, sadness or guilt.
- Identify the personal support system available to the victim, such as a mother, husband, family and friends. It is important to establish contact persons.
- Facilitate the recovery or safeguarding of personal possessions, if relevant. It may be very upsetting for a person to lose his credit cards and identity documents, for example.
- Relay immediate further intervention required. For example, statements to the police and medical and further trauma treatment may be required.
- Explain the nature of trauma, and the possible development of symptoms and emotions.
- Explain the consequences of trauma and the importance of trauma treatment.

#### *Phase 2: Stabilisation*

The victim of trauma should preferably be afforded an adequate length of time for the various possible immediate emotional responses, such as denial, disbelief and confusion, to start dissipating. It is for this reason that the stabilisation phase cannot be successfully implemented before 24 hours have elapsed. The victim will then be more ready and able to deal with further emotions such as anger, grief, fear, etc., which may become predominant at this stage, and it is at this juncture that stabilisation treatment should commence. This involves sub-phases of recounting, releasing, reorientation and reflection.

During the *recounting* process the patient recounts what he or she can remember of the period immediately preceding the current specific trauma experienced, the trauma itself and, finally, the period immediately following the current specific trauma experienced. This is important to place the trauma in time and relationship perspective. During the

recounting sub-phase the focus is on the objective, rational consideration of the trauma experienced.

The process will typically take two to three recountings. With each session each individual sequence should be expanded in greater detail. New sequences may then emerge which are then inserted into the recounting flow appropriately. The counsellor should intrude or intervene as little as possible during the recounting process, allowing the patient to process the trauma at an increasingly more conscious level. The counsellor must be aware of any indication, by the patient, of the experiencing or reactivation of pre-existing trauma, which may require future revisiting and further treatment.

During the *releasing* process after the recounting, the patient releases the emotions engendered or evoked as a result of the current specific trauma experienced. The focus is on the subjective or affective consideration of the trauma experienced. The process can reveal a predominant emotion or affect, or a number of them. The emotions may change from one to the other, in no particular order or sequence. It is important to allow the patient to identify and consider the emotions that have been or are being experienced.

The releasing sub-phase will usually require the longest time allocation, as sufficient time must be allowed for the patient to fully deal with the prevalent emotions and for their effect on the patient to be exhausted.

In the *reorientation* sub-phase the patient begins post trauma reorientation. The counsellor plays a somewhat more interventionist role, in that the patient is guided and encouraged into reorientation and returning to a more predictable and structured functioning (living) pattern.

Reorientating commences with the review of where the patient's current trauma position is. The patient does this by recognising that his or her pre-trauma view of life in terms of concepts, assumptions, perceptions, etc, has been altered by the trauma experienced. This leads to a stage of reflection, when the patient, with the counsellor's assistance, reflects on his or her current status compared to prior to the trauma treatment, and how to deal with symptoms such as behavioural and emotional changes in future. The patient should be ready now to be guided into the absolvment or forgiveness process.

A single intervention session is insufficient to ensure effective stabilisation – at least six sessions is required for effective intervention. Stabilisation should only be implemented as an individual treatment intervention, and not on a group basis.

Misapplication or inappropriate misuse of this process can seriously affect the treatment success and future recuperation, and ultimate recovery of the patient. Therefore only counsellors who have undergone sufficient and appropriate theoretical and practical education and training, and who are subjected to ethical and professional control, should undertake its provision and application.

### **Treatment facilities**

Counselling at ground level is usually handled by trauma counsellors. Psychologists and social workers also administer trauma treatment, but focus more on long-term treatment

and not only on trauma. Some institutions, for example churches and police stations, also have trauma units staffed by trained trauma counsellors. The Trauma Centre of the Rand Afrikaans University (RAU) developed a National Trauma Network, linking existing trauma centres, psychologist and social workers dealing with trauma.<sup>22</sup> The National Trauma Network, again, has developed trauma centres in Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo and Mapumhalanga.

All the trauma counsellors in South Africa are part of this National Trauma Network, and whenever there is a specific need the victim can be put in touch with a trauma counsellor or trauma clinic. The Network also identifies specific communities where there is a need for a trauma centre, and assists those communities to establish trauma centre and to train trauma counsellors according to a standard trauma treatment model.

Apart from properly trained trauma counsellors, these centres must have proper facilities that meet the required standards, as well as a manager. A centre's mission and goals should be set, and ways identified by which the goals can be achieved and the resources to do so acquired. The Network provides support to the various centres, and ensure that the centres are on the right track in the attainment of their goals. The aim of control is therefore to check that performance and action confirm to plans to attain the goals and to link with other centres to learn from their experiences or expertise and to support each other.

## RECOMMENDATIONS

It has become imperative for the South African farming community (and indeed the community in general) to create the necessary infrastructure to deal with trauma, and for citizens to utilise these resources effectively. Furthermore, the problem of traumatic stress caused by farm attacks has to be tackled not only on a reactive level but also proactively.<sup>23</sup>

Reactive steps should include the following:

- Trauma centres should be established in every community in order to help victims to recover from the traumatic incident. The trauma centre should have a manager and trained counsellors, either full-time or on a voluntary basis.
- The facility to be used for the trauma centres must be central and for everyone in the community. It obviously cannot be for the exclusive use of farm attack victims. It may be possible, for example, to coordinate their activities with sexual abuse or domestic violence crisis centres.
- Counsellors should be properly trained, and the training should be ongoing because of the rapidly developing discipline of trauma counselling.
- A protocol for dealing with victims of trauma should be formulated, and it is important for trauma centres to form part of a network so that specific standards can be established.

The Committee realises that the establishment of proper trauma treatment facilities will be a slow process, hampered by the lack of resources. In the mean time, it is important to ensure that all police stations have information about whatever facilities are available in their area, whether at a hospital, or a therapist in private practice.

<sup>22</sup> Contact Person for National Trauma network – Tessa van Wijk at 011 7261417 or 082 804 9886

<sup>23</sup> H.C. van Wijk: Oral submission to Committee on 2001-07-24

Proactive steps should include the following:

- Day workshops should be held for farmers and farm workers on how to build relationships with each other and how to establish security networks.
- Day workshops should be held for wives, children and domestic workers on how to deal with fear and what they can do regarding farm attacks. Proactive programmes should therefore be established on farms and in every community.
- The workshops should also deal with the problem of preconceived ideas, perceptions and stereotypes. Fears and emotions have to be confronted.

## **PART IV**

### **CONCLUDING SECTION**

## CHAPTER 18

### CONCLUSIONS AND RECOMMENDATIONS

#### INTRODUCTION

In terms of its brief this Committee was to ‘determine the motives and factors behind these (farm) attacks and to make recommendations on their findings.’ The Minister’s decision that the Committee was to be appointed resulted from ‘the need to once and for all put to rest the rumours, differing opinions and perceptions as to what is behind farm attacks.’<sup>1</sup> In other words, the primary task of the committee has been to assess the validity of various theories and explanations, which have been advanced about why farm attacks occur, in the light of the available evidence.

#### Terminology

The literature<sup>2</sup> and the submissions<sup>3</sup> summarised in the Report offer a number of likely explanations for farm attacks, often couched in terms of ‘motive’ or ‘cause’. A motive refers to the driving forces behind the behaviour of humans, and there are various psychological theories – which in turn relate to philosophical assumptions about human nature – concerned with explaining human motivation.<sup>4</sup> An example of this type of theory as used to explain farm attacks would be that specific attacks were motivated by grudges arising out of the relationship between a farmers and employees.<sup>5</sup>

The term ‘causes’ is also commonly used when attempts are made to explain attacks. While in popular parlance the meaning is quite straightforward, ‘cause’ is a controversial term in the social sciences, because it tends to suggest that human behaviour can be explained in a mechanistic way, instead of recognising the complexity of factors which should be taken into account in reaching understanding about why people behave as they do.<sup>6</sup> There is, however, broad consensus in the social sciences that the behaviour of individuals should be understood in the context of the norms, values and beliefs they share (culture) and the positions they occupy in that society (the structure), especially as these positions reflect the way in which power is distributed in society.

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<sup>1</sup> Letter of appointment of member of the Committee dated 5 April 2001; Media statement by the Minister of Safety and Security, Pretoria, 5 April 2001.

<sup>2</sup> See Chapter 10

<sup>3</sup> See Chapter 9

<sup>4</sup> See, e.g. Krech D. and Crutchfield R. *Elements of Psychology* New York (in Knopf A. ‘Motivation and Emotion’, Part 4, New York 1969)

<sup>5</sup> More than one motives may play a part in a crime as, e.g., with some of the political violence in KwaZulu-Natal, foot soldiers for a warlord may gain materially while at the same time removing a political enemy.

<sup>6</sup> See, e.g. Pratt V. *The Philosophy of the Social Sciences* (Routledge, London 1978) p 65-67; Gerth H. and Wright Mills C *From Max Weber* (Routledge and Kegan, London 1970) p 57

Adopting this broad approach in identifying causes of farm attacks allows explanations which take into account individual motivation (e.g. of perpetrators) but also social structures and networks<sup>7</sup> in identifying the forces behind attacks and the way they are interlinked, in establishing why attacks occur.

## THEORIES OF FARM ATTACKS

Prof Neels Moolman<sup>8</sup>, the criminologist, provides a useful summary of the type of explanations given for farm attacks, which, he says, fall into four broad categories:

- Attacks are motivated by criminal intent such as robbery.
- They are politically-motivated, specifically in relation to land issues, and aimed at driving (white) farmers off the land.
- They are related to labour disputes and grudges.
- There are a variety of factors, such as racism, perceptions of farmers as outlaws, and the failure of the criminal justice to deal with crime in South Africa through, for example, the arrest and conviction of perpetrators.

### Robbery as the major motive for attacks

The most common explanation used, is that attacks are merely criminal acts of robbery, which may also leave in its wake crimes such as murder and rape. The findings of the Britz and Seyisi report<sup>9</sup>, that 99% of attacks are crime-driven, with robbery as the primary motive, is an example of this approach. While they vary in their assessments of the percentages of attacks which are purely criminal in motive (as opposed to, say, personal grudges), other reports by security agencies, summarised in the Report, also agree that the overwhelming majority of attacks are criminally-motivated. The same applies to the Mistry and Dhlamini report on perpetrators of farm attacks<sup>10</sup> and the Schönteich and Steinberg monograph on farm attacks.<sup>11</sup>

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<sup>7</sup> The term network is used in social science to describe informal (as opposed to formal) and continuing social relationships between individuals

<sup>8</sup> Moolman C.J. *Farm attacks and the African renaissance: Opposite reactions to a devastating culture* er (2000) p 118.

<sup>9</sup> NICOC *Attacks on farms and smallholdings* (compiled by Ass Comm S Britz and Dir E. Seyesi, 1998) p 18.

<sup>10</sup> Mistry D. and Dhlamini J. *Perpetrators of farm attacks: An offender profile*. (Institute for Human Rights and Criminal Justice Studies, Technikon SA, 2001)

<sup>11</sup> Schönteich M. and Steinberg J. *The rural protection plan: Farms still under attack*. (Nedbank ISS Crime Index No 3/2000 p. 5)

### **Land related intimidation, racism, hatred, revenge and politics**

This theoretical approach is favoured by Action Stop Farm Attacks<sup>12</sup> and by Moolman<sup>13</sup>, who argue that attacks should be seen in the context of historic interaction between black and white communities in South Africa, with their differing ‘mindsets’ concerning land, and the fact that the white farming community had been seen as a legitimate target during the struggle against apartheid. In the post-1994 period, statements by certain politicians and NGOs are seen as supporting the interpretation that attacks and murders are intended to intimidate commercial farmers to share or leave their land to appease the landless. Features of specific farm attacks culled from NICOC and other security agency reports, such as utterances by attackers, gratuitous violence and the fact that the attackers did not steal anything, are cited in support of this interpretation. There is also reference to perceived racial hatred stemming from the historic relationship between blacks and whites in South Africa, and a desire for retaliation for past injustices. A recent development is the emergence of a ‘genocide’ theory, applied specifically to farm attacks, which argues that the real reason for these attacks is being deliberately concealed.<sup>14</sup>

### **Labour related intimidation**

According to this explanation, farmers may be targeted because of their being perceived as exploiting labour and refusing to transform the conditions of workers on their farms. Extracts from the Human Rights Watch report<sup>15</sup> such as an interview with a trade unionist who claimed that one could not ‘divorce the farm attacks from our history...they (i.e. white farmers) still take it that they are the owners of the universe’, can be cited in support of this theory. Moolman refers to a report in *Beeld* newspaper, quoting ANC and PAC Free State politicians saying that the ‘(farm) murders also have to be seen against the background of willful and unasked for eviction of farm workers from farms, because the farmers are against the Extension of Security of Tenure Bill.<sup>16</sup> In addition to perceptions of farmers as a category, individual farmers may be attacked in revenge after, for example, labour disputes or dismissals.

### **Multiple cause theory**

Moolman<sup>17</sup> points out that, important as the above three theories are, the dynamics of farm violence are extremely complicated, and he identifies a ‘multiplicity of causes’ which could be lead to attacks. A culture of violence had taken root in South Africa during the years of political struggle, and had become entrenched as a means of resolving conflict. The youth of

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<sup>12</sup> Action Stop Farm Attacks *A memorandum on farm attacks and the implications thereof to commercial agriculture and food production in South Africa* (2000-11-07)

<sup>13</sup> Moolman *op cit* p 162

<sup>14</sup> Genocide is violence directed against people on the basis of their race, ethnicity or religion. There is an exposition of this theory at [www.bugbear.com](http://www.bugbear.com)

<sup>15</sup> See Chapter 10

<sup>16</sup> Human Rights Watch *op cit* p150; *Beeld* 3 November 1997. The bill has since been enacted

<sup>17</sup> Moolman *op cit* p118-139

offenders (in terms of the period in which they would have grown up), and the possibility that they had undergone some type of military training, are mentioned in this regard.

The apparent hostility of many role players, such as the National Land Committee, and politicians making statements to the Truth and Reconciliation Commission, could fuel a culture of violence against farmers, as could historically entrenched racial discrimination, which would have given rise to distorted perceptions about white farmers or Afrikaners in general.

Another important contributing factor could be problems experienced with the criminal justice system. Not only were prisons overfull, but imprisonment itself had lost some of its deterrent value because during the apartheid years, when people were imprisoned for petty offences (such as contravening passbook laws) incarceration was not shameful, and did not lead to loss of community respect. Various surveys since 1994 had shown widespread dissatisfaction with the government's handling of crime, and perceptions that the government had lost control over it. That public opinion was not without foundation was born out by conviction rates for various types of crime.<sup>18</sup> Moolman also points to factors inherent in the functioning of the criminal justice system during the latter 1990s which contributed to low conviction rates.

Other important factors to be taken into account when explaining farm attacks included the abundance of illegal firearms circulating in South Africa, and the poverty, underdevelopment and unemployment which contributed to crime in general. Crime carried out with a view to acquiring property, including firearms, was undoubtedly a factor in farm attacks, especially as farmers, living in isolation and working outdoors, were perceived as 'soft targets'. However, these crimes took place in a political climate and the 'feeling of empowerment after a lifetime of oppression had been a strong motivation for some who could not handle this new-found freedom, inciting them to start claiming what they perceived to belong to them and was promised to them during the election campaigns'.<sup>19</sup>

## THE COMMITTEE'S TASK

Taking into account the literature referred to above, and the circumstances which led to the establishment of the Committee - especially as they related to the perceptions of, and explanations put forward by, the farming community - the debate about farm attacks is essentially about two issues.

Firstly, are the overwhelming majority of farm attacks indeed merely criminal in terms of the motives of perpetrators (which begs the question whether the criminals are locally based, small time operators, or whether they are part of more widely-based criminal networks, linking rural and urban areas)? Steinberg<sup>20</sup> refers to 'the theory that farm attacks are a symptom of displacement of urban crime - more specifically, that organised crime in

<sup>18</sup> Moolman *op cit* p 130-132

<sup>19</sup> *ibid* p 138-139

<sup>20</sup> Steinberg J. *An assessment of the Rural Protection Plan in the Letaba and Mooi River areas*. (Centre for the Study of Violence and Reconciliation, 2000) p 19

metropolitan areas makes calculated forays into the soft-target zones of rural South Africa', noting that patterns of crime in the Letaba area do not support this theory. In the Mooi River area, however, perpetrators had come from an East Rand township in one of the cases Steinberg refers to, and some of the literature summarised above refers to apparent links between urban and rural crime. Positing crime as an explanation invites an examination of why crime levels are so high in South Africa, which in turn is linked to a variety of types of explanations, especially as they relate to the culture of violence and shortcomings in the criminal justice system, referred to in Moolman's fourth category above.

Secondly, to what extent are farm attacks driven by what are fundamentally political issues (in that they relate to power structures and dynamics in pre- and post-1994 South Africa), *specifically as they relate to land*, and the imperative to return white-held land to the indigenous people posited as the original owners of the land? There are therefore also clear racial overtones to this type of theory, in that the overwhelming majority of people dispossessed of land were black, indigenous Africans, who now constitute the vast majority of claimants, especially in rural areas. Again, aspects of Moolman's fourth category ('farmers as outlaws') may fit into this type of explanation, and the culture of violence aspect cannot be divorced from the political climate of the 1970s and 1980s, during which time most of the perpetrators would have grown up. Although an attack on a farmer could result from individual motivation (e.g., a former occupant or owner of the land seeking to displace the farmer and acquire the land him- or herself), land-related theories tend to posit organised structures (a network of people occupying certain roles or positions in society), such as political parties or politically-motivated bodies or organisations as ultimately responsible for orchestrating attacks, or for fuelling them through rhetoric. Those supporting such explanations cite utterances of politicians and NGO's, for example, and some have inferred that there may be international conspiracies, such as socialist forces, at work.<sup>21</sup>

It is clear from research cited above<sup>22</sup> that many members of the farming community link farm attacks to land issues. For example, Steinberg notes that, in the Letaba area, a number of farmers believed that there was a causal connection between farm attacks and restitution claims in the area.<sup>23</sup> At the time of his research in that area he could find no links between land hunger and farm attacks, but he notes that while there had only been a 'handful of restitution claims' lodged in that area, his interviews with the Department of Land Affairs and with traditional leaders suggested that 'vast tracts of land in the area' would be claimed in the near future.<sup>24</sup>

In his book *Midlands*, Steinberg, while acknowledging that the motive in the majority of farm attacks appears to be robbery, supports the theory that the imperative to reclaim land lost through colonial dispossession is a key factor in some of the post-1994 attacks, which 'tamper with the boundary between acquisitive crime and racial hatred'.<sup>25</sup> He talks of 'a racial frontier' and claims that the perpetrators of a farm attack did so 'to push the boundary back, a

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<sup>21</sup> Van de Graaf H. and Jordaan Dr C.L. *Property rights in South Africa*. (1999) p 91 *et seq.*

<sup>22</sup> Chapter 10

<sup>23</sup> Steinberg *op cit* p 10.

<sup>24</sup> *Ibid.* It is not clear how this would be possible since the cut-off date for lodging claims had already passed at the time Steinberg's report was published.

<sup>25</sup> Steinberg J. *Midlands* (2001) p vii-ix

campaign their forebears had begun in the closing years of the nineteenth century and which their great-grandchildren believed was their destiny, as the generation to witness apartheid's demise, to finish'. Steinberg has long been highly critical of the Government's insistence that farm attacks were motivated only by 'normal criminality'. In an earlier newspaper article<sup>26</sup>, Steinberg refers to the 1998 police report (presumably the Britz and Seyisi report) cited in support of this interpretation, as 'not so much an investigative report as a rushed and tacky political intervention'. In a similar manner to Action Stop Farm Attacks, he draws on material in NICOC reports about gratuitous violence, torture and rape, etc., to suggest it was 'abundantly obvious' that 'these acts are the work of a starkly political consciousness'.

Also pertinent in making an assessment about why farm attacks occur is the third category cited by Moolman, i.e. that they arise from labour disputes or grudges. Again, an individual might engage in such an attack because of his or her personal experience (a grudge or labour dispute), but this type of theory also allows for organised structures to orchestrate attacks on farmers because of negative stereotypes that farmers, as a category, treat workers badly and deserve to be punished.

In actual fact, as Moolman points out, it would be unrealistic to expect that any of these three types of explanation could possibly account for *all* attacks on farmers, and the empirical material cited – in, for example, CIAC reports<sup>27</sup> – attempts to provide rough quantitative breakdowns of different types of reasons for attacks based on docket analysis and research, allowing for the fact that, in some few instances, there *may* be political overtones to attacks.

Ultimately, the primary task of this committee is to assess whether there is, from the body of material it has amassed during its research, any factual basis on which to conclude that there is substance to theories that claim that farm attacks are politically motivated, especially insofar as land issues are concerned.

## **FINDINGS AND RECOMMENDATIONS**

Before providing details of the Committee's findings about the motives of farm attacks, it is necessary to start with an evaluation of the statistical base relied upon for the explanations of these attacks. Of central import too, in interpretations of this phenomenon, are the issues of gratuitous violence reportedly associated with these attacks, and what are believed to be racial overtones. The Committee spent a great deal of time researching these aspects, and on the role of the criminal justice system and security in farm attacks. The findings also draw attention to the trauma suffered by victims. Recommendations are included in these findings. The major topics considered by the Committee are as follows:

### **The incidence of farm attacks**

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<sup>26</sup> Steinberg J. 'Still programmed to kill.' (in the *Natal Witness*, 1998-08-20)

<sup>27</sup> Chapter 10

Prior to 1991 crime on South African farms was not unknown, although the term farm attack was not used. In the early 1990s organized agriculture began to take notice of the apparent increase of these incidents and the then South African Agricultural Union started to keep statistics in 1991. In that year they registered 327 farm attacks and 66 killings. In 1997 the CIMC (later the CIAC) also started to collect statistics on the phenomenon. The statistics indicate an increase in incidents and by 2001 reached a figure of 1011 farm attacks and 147 killings. This increase may not have been as dramatic as it would seem because the Committee established that especially in the initial stages of compiling statistics there was a serious under-reporting. All the organizations collecting statistics agree that the data are incomplete, especially for the earlier years. Although the collection and processing of the data have improved since 1991 the Committee is of the opinion that there is still a degree of under reporting, especially in some provinces. The Committee itself came across examples where farm attacks had not been reported.

Although the statistics generally follow a steady upward trend between 1991 and 2001 they also show an inexplicable drop in incidents for 1996 and 1997 followed by a sharp increase in 1998. The Committee is satisfied that the extraordinary decrease in 1996 and 1997 was the result of under reporting and that the sharp increase in 1998 could be ascribed to the special instructions issued by the then Minister of Safety and Security that farm attacks should be closely monitored. Nothing sinister can be read into these deviations.

The general increase can also be partly attributed to the fact that more attacks on smallholdings were being registered and, furthermore that attacks on black farm residents were also being registered to a greater extent. With these remarks the Committee does not wish to imply that farm attacks did not increase markedly during the period under discussion, but merely that it is impossible to determine the actual extent of the increase.

The provisional figures for 2002 made available to the Committee by the CIAC indicate that exactly 1 000 farm attacks and 112 killings. Indications are that farm attacks during the first months of 2003 have decreased further. It may therefore be that farm attacks have not only stabilized but may in fact be decreasing. The incidence of murder relative to the number of farm attacks actually declined between 1998 and 2001 while the provisional figure for 2002 of 112 show a decrease of 23.8% in absolute terms.

No specific reasons for this reported decrease have been given to the Committee. It may be that reporting is beginning to reach a saturation point, that the efforts of the Rural Protection Plan are showing results, and that the drive for farmers to increase their security is paying off. The period of the decrease is far too short to draw any meaningful conclusions about trends, however.

Regular use of unreliable statistics results in unscientific conclusions being drawn about farm attacks. It should be mentioned however that both the CIAC and NOCOC are now making a special effort to make the statistics as reliable as possible. The system at that level seems to be efficient, but at ground level there appear to be problems.

Some processing at intermediate level, i.e. area and provincial, also seems problematic.

### *Recommendations*

- The committee disagrees with the suggestion by Human Rights Watch that small holdings should be excluded from the category of farm attacks. However, the statistics should clearly differentiate between the two categories.
- Special attention should be given to collecting and processing of statistics at local and provincial level, and proper auditing procedures should be introduced

### **Motives for farm attacks**

As indicated above, the brief of the Committee was to establish the motives behind farm attacks, including whether these attacks are politically motivated. To achieve this end, the Committee used all possible sources at its disposal to research the motives behind these attacks. The perception that farm attacks are politically-inspired seems to be based on the facts of a few serious and highly publicised cases, which do not reflect the general pattern of farm attacks.

The committee interviewed about fifty investigating officers. In addition, telephonic interviews were conducted with about a further thirty six investigating officers in relation to specific cases. All the investigating officers were of the view that the primary motive in the greater majority of cases was to rob. In their view very few cases were politically or racially inspired. About fifteen state advocates from the offices of the Directorate of Public Prosecution were interviewed and they held exactly the same views. None of the perpetrators interviewed by the Committee itself, or perpetrators interviewed in earlier research, admitted to political motives. The Committee regards it as very unlikely that the perpetrators themselves would have lied about such a political motive, since that would have provided some moral justification for their crimes.

Organised agriculture provided the committee with a list of cases that they thought merited further investigation because they were possibly of a political nature, or because of unnecessary and excessive violence. The committee also identified a number of cases from other sources, including the NOCOC data base and newspaper reports. Altogether over a hundred cases were closely scrutinized, and forty five were the subject of full-scale case studies.

The Committee analysed the NOCOC database of farm attacks from 1998 to 2001 where the motive was clearly robbery, intimidation, political, or labour-related. In 2 631 cases where such clear motive could be established, 89.3% was clearly robbery, 7.1% intimidation, 2% political or racial, and 1.6% labour-related.

In very few cases were there indications of a political motive. The Committee accepts that there is a small minority of cases where there are racial or political overtones such as the utterances of attackers, but despite a close scrutiny of these cases no connections could be found between them and political groupings. Nor was there any evidence to support the theory that farm attacks, with the exception of relatively few cases, are related to labour disputes or grudges.

Allegations have also been made that farm attacks are generally carried out with military precision and on an organized basis. Farm attacks are often well planned and preceded by reconnaissance. That does not mean that an organized structure, such as a political grouping, is responsible for orchestrating these attacks. Generally, unlike cash-in-transit heists, farm attacks are not carried out by professional criminal gangs, but rather by amateurs who are often inexperienced.

The only exceptions in which there is evidence of a degree of organisation behind incidents falling into the farm attack category, are to be found in some cases land invasions.

### **Land invasions and farm attacks**

After its inception the attention of the committee was drawn to the phenomenon of land invasions and its relationship with farm attacks. Not only are these invasions generally linked to incidents of intimidation and arson, but they also lead to farm attacks in the narrow sense of the word where robberies, and even rape and murder may follow. Invasions also threaten the viability of commercial farming activities, and may even destroy it.

It seems to the committee that land invasions fall into two categories. The first involves squatting as a result of continuing encroachment from nearby settlements, as in Daveyton, but which appears spontaneous. Such encroachment may or may not be organised. In other areas there is evidence of a degree of organization behind the invasions. Especially in KwaZulu-Natal there are indications that traditional leaders are involved in organising these illegal invasions, seemingly to extend their spheres of influence.

This matter is of great concern to the Committee because of its impact on rural safety and security, and livelihoods of farmers. Some organizations have openly declared their intention to facilitate land invasions, and all indications are that these invasions are going to increase, with all the attendant consequences. Furthermore, the Committee has come across examples of incompetence, lack of capacity, and cases in which the Land Claims Commission itself does not adhere to constitutional principles or the relevant legislation, which behaviour has impacted very negatively on farmers. The Committee has also been given specific examples of the failure of the SAPS to assist farmers in implementing the law, despite appeals to them to do so.

### *Recommendations*

- Since farmers are not being given the assistance to which they are constitutionally-entitled by representatives of the Ministry of Land Affairs and Agriculture, and the South African Police Services, urgent attention should be given to rectifying the situation. It is essential that existing laws governing illegal land invasions be implemented by those responsible for doing so. In terms of a landmark decision in the High Court in November 2002, the government has a positive duty to protect the constitutional rights of land owners.

- Members of the SAPS at local station level appear to lack knowledge about the implementation of existing legislation, and management should address this deficiency as a priority.
- The process of land restitution should be speeded up in line with existing legislation, including through the government identifying land which can be used for residential purposes by landless people

### **The violence during farm attacks**

It is clear that many farm attacks are extremely violent, often leading to serious injury and death. This has been proffered as proof that there is an intimidatory process at work to force farmers off land. The type of cases which receive the most prominence are the more serious cases, leading to the perception that those are typical of the majority of farm attacks. The reality of the situation is that in 2001 about ten percent of the victims were killed, and according to the provisional figures for 2002 this proportion is considerably less. About one third of farm attack victims sustained injuries during 2001.

Most farm attacks are armed robberies. The committee found it difficult to find a suitable basis for comparison with other comparable manifestations of armed robbery. In the end the committee compared farm attack robberies with cash-in-transit robberies, which are reputedly also extremely violent. It was discovered that, compared to the ten per cent chance that a victim of farm attacks had, in 2001, of being killed, the victims of cash-in-transit robberies, only ran a risk of 3.5%. There are various explanations for this discrepancy, but the difference would suggest that, in general, farm attacks are more violent.

The committee also compared house robberies on farms (i.e. where the victims were attacked inside the house) in the Eastern Cape with house robberies in urban areas of the same province. (For technical reasons all murder cases were ignored in this comparison.) Some 29,4% of the victims of farm attacks were injured whereas only 16% of the victims of urban house robberies sustained injuries. The committee made the same comparison in four other provinces collectively. Although this difference was not as pronounced as in the case of the Eastern Cape farm attack victims were still at a significantly higher risk of sustaining injuries. There are a variety of possible reasons to explain this phenomenon, but the fact remains that these examples support the notion that farm attacks are more violent than other comparable (i.e. robberies) crimes.

Although certain criticisms can be leveled against the validity of the comparisons, they do seem to indicate that farmers run a relatively higher risk of being seriously injured and killed. Some heads of SAPS Serious and Violent Crimes Units informed the Committee that farmers ran a greater risk of being murdered than their white counterparts in towns or villages.

### *Recommendation*

- The Committee was unable to obtain sufficient statistical data for a proper analysis, and it is recommended that the CIAC conducts further research into this matter.

### **Racial issues in farm attacks**

There is a perception that farm attacks are almost exclusively aimed at white farmers. In 2001, white persons only constituted 61.6% of the victims of farm attacks. From analysis that the Committee made of previous statistics it would seem that the proportion of black victims is increasing. This apparent trend may be at least partly the result of improved reporting of attacks on black people. At the same time, it must be mentioned that there is a considerably higher risk of a white victim of farm attacks being killed or injured than a black victim. In December 2001, for example, 19.6% of the white victims of farm attacks were killed and 46.4% injured. Of the black victims, 4.4% were killed and 25% were injured. This phenomenon has also been observed in the other case studies.

The obvious explanation for this phenomenon is that it is a reflection of an underlying racial hatred towards white farmers. Except for individual cases, the Committee could find no general underlying racial motive. However, there may be a variety of other factors involved, such as the fact that the attacker expects the farmer to offer more resistance and to summon help.

It must also be pointed out that half of the cases of land invasions linked to farm attacks brought to the Committee's attention, affected Coloured and Indian farmers.

### **The criminal justice system**

The fact that the criminal justice system in South Africa is not performing optimally impacts on farm attacks in various ways. In some cases of farm attacks, perpetrators had not been arrested and prosecuted for crimes they had committed elsewhere before the attack. Other perpetrators had previous convictions, but sentences imposed had not acted as a sufficient deterrent. Although the conviction rate for farm attacks is higher than for other similar crimes, this seems linked to the investigations being handled by specialised units. In some of the cases perused by the Committee, only some of the suspects had been apprehended, and some had escaped from custody. It is a cause of some concern that insufficient effort appeared to have been made to apprehend them or re-arrest them.

The specialised units regard farm attacks as a priority crime. Nevertheless, there were generally high levels of dissatisfaction among farmers with the service delivery of local police stations. There were allegations of police failing to respond to concerns of farmers, and even incidents of attack, in a prompt and professional manner. It also became clear to the committee that there is a lack of resources (personnel, vehicles) in rural areas. The shortage of police personnel in rural areas is being addressed through the recruitment of an additional 30 000 entry level police constables by early 2006, many of whom will presumably be deployed to rural areas.

In some of the cases followed up by the Committee farmers had called the commandos rather than the police because they were more accessible, because of the distance of the police station from the farm and reaction time. The committee supports the intention of the SAPS to replace

the Commandos with Area Crime Combating Units and sector policing. The initiatives may be able to overcome some of the police's problems in respect of policing rural communities. Although it may be difficult initially, the SAPS should strive towards a consistent visible police presence in the form of sector policing.

#### *Recommendations*

- The efficiency of the police service in rural areas is hampered by a lack of resources to work effectively. Although money is short in supply, the Committee recommends that existing resources be allocated in a more productive way. Head office-based police officers could, for instance, be reallocated to police stations in high crime areas, and more police officers could be put on duty during times when most crimes occur.
- The detective and investigation capacities of rural police stations need to be enhanced. Proactive functions of the police stations should include a focus on improved intelligence work which would guide the operational deployment of station personnel and specialized units.
- A proactive approach should also be used to ensure the involvement of all rural residents in structures such as community policing forums.

#### **Security on farms and smallholdings**

There is little doubt that security on many farms is inadequate or non-existent. This fact was stressed during the interviews with investigating officers and prosecutors, and was further confirmed by several objective studies referred to in the report. Urban South Africans, and especially business and more affluent sectors, have responded to the crime wave by greatly improving security. It is therefore to be expected that there would be a large measure of crime displacement to softer targets, including vulnerable rural areas. That partly explains the phenomenon that crime on farms seemed to be increasing at the very time when crime in general was declining. Furthermore, the blossoming of informal settlements, in which criminals are well represented, has increased the risk of attacks on nearby farms and smallholdings. Even although many of them are not well off, farmers are seen as wealthy, and a source of especially money and firearms.

#### *Recommendations*

- It is essential that security—both for safeguarding property and personal safety - be stepped up. Some measures that are relatively inexpensive may avert a farm attack, as may simply exercising greater alertness.
- The Committee is also of the view that many potential victims – both farmers and workers – do not know how to handle farm attacks once they do occur. This applies especially to the older generation. Many fatalities and injuries could possibly be avoided if victims were to react in a way suitable to the situation. In some of the cases investigated by the Committee victims had remained calm and this reaction appears to have had a positive impact on the behaviour of the perpetrators. This is an aspect which both the police and organised agriculture should give attention to, through facilitating the training of members of the farming community on how to react during an attack.

- Security companies operating in farming communities should be registered with the Private Security Industry Regulatory Authority (PSIRA) and conduct themselves in a professional manner in order to maintain the confidence of the whole rural community
- Case studies and interviews with victims revealed that farm attacks may strain relationships between farmworkers and their employers, and white farmers and members of the black community generally. Ways need to be found of re-establishing trust among different sectors of rural communities.

### **The trauma of farm attacks**

The impact of trauma on the victims of farm attacks has not been given sufficient attention. Many of the victims interviewed by the Committee had not received any counseling at all. Trauma results in mental scarring of the victims, which may take much longer to overcome than any physical injuries or financial setbacks suffered. Trauma may also result in distorted perceptions of farm attacks on the part of the victims. The effects of trauma on farm victims are similar to the effects of trauma on victims of crime in general.

#### *Recommendations*

- The necessary infrastructure to deal with trauma should be created and should be available and accessible to the whole rural community.
- On the proactive level workshops for farmers, farm workers and their families should be held to bring the importance of this matter to their attention.

## SUMMARY OF THE REPORT

### 1 THE APPOINTMENT OF THE COMMITTEE

The farming community has been plagued by farm attacks for many years. It seems that farm attacks have been increasing, and according to available statistics there were 6122 between 1991 and 2001, resulting in 1254 persons being killed. During 2001 there were 1011 farm attacks and 147 persons were killed. The farming community called on the Minister for Safety and Security to take steps, and he responded by instructing the National Commissioner of Police to appoint the Committee of Inquiry into Farm Attacks.

The members of the Committee are Adv C.F. du Plessis (SC), Ms M.E.A. de Haas (senior lecturer at University of Natal), Ms J. Dhlamini (senior researcher at Technikon SA), Ms D. Mistry (senior researcher at Technikon SA), Prof C.J. Moolman (University of the North), Mr L. Rasegatla (Secretary for Safety and Security), Adv M. Schönteich (senior researcher at the Institute for Security Studies) and Ms H.C. van Wijk (traumatologist at Rand Afrikaans University).

The terms of reference of the Committee were ‘to inquire into the ongoing spate of attacks on farms, which include violent criminal acts such as murder, robbery, rape, etc., (and) to determine the motives and factors behind these attacks and to make recommendations on their findings. The inquiry also had to include the following: review of court cases; interviews with sentenced persons; interviews with the farming community, including victims; interviews with investigating officers; and interviews with any other person or institution which the Committee may deem necessary for the purpose of their report.’

The official definition of farm attacks is as follows: ‘Attacks on farms and smallholdings refer to acts aimed at the person of residents, workers and visitors to farms and smallholdings, whether with the intent to murder, rape, rob or inflict bodily harm. In addition, all actions aimed at disrupting farming activities as a commercial concern, whether for motives related to ideology, labour disputes, land issues, revenge, grievances, racist concerns or intimidation, should be included. Cases related to domestic violence, drunkenness, or resulting from commonplace social interaction between people are excluded from this definition’. Although the definition has shortcomings, the Committee decided to use it.

The Committee gathered inputs and other information in various ways:

- The Committee heard oral submissions during formal sittings in Pretoria.
- Interested persons and bodies were invited to submit written submissions.
- Interviews with other persons who could make relevant contributions were conducted. Interviews were conducted with victims, perpetrators, investigating officers and state advocates.
- Various areas were visited in field trips by smaller groups to obtain firsthand information, mainly on the question of land occupation.
- The very large volume of literature on farm attacks already in existence was perused. This included articles, monographs, reports, newspaper articles, etc.
- The Committee reviewed and analysed the statistical data supplied by the SAPS and other bodies.

- Police dockets, files of various Directors of Public Prosecutions and other official documentation relating to court cases, such as court records and judgements, were perused.
- Case studies of specific incidents of farm attacks were conducted.

## **2 THE INCIDENCE AND NATURE OF FARM ATTACKS**

It has proved to be very difficult to obtain accurate statistics on farm attacks. The South African Agricultural Union (now Agri SA) started collecting statistics on farm attacks in 1991. Because of the increasing incidence of farm attacks, the Crime Information Analysis Centre (CIAC) began collecting statistics in 1997, and the next year the National Operational Coordinating Committee (NOCOC) started doing the same, for operational purposes. It would seem that the statistics are not very reliable, especially for the earlier years. Since 2001, however, the CIAC and the NOCOC have been collaborating very closely in an effort to make the statistics as accurate as possible.

In terms of these statistics, farm attacks have shown an increase from 327 incidents in 1991 to 1011 incidents in 2001. The SAAU figures show a drop in farm attacks during 1996 and 1997, to be followed by a sharp increase in 1998. For certain reasons the Committee is not satisfied that those figures are correct. Murders during farm attacks increased from 66 in 1991 to 142 in 1998, and thereafter remained virtually constant until 2001. The average murder rate has therefore been dropping since 1998, and stood at 14.5% in 2001 (i.e. one murder for every 7 attacks). The provisional statistics for 2002 show exactly 1000 farm attacks, and only 112 murders (one murder for every 8.2 attacks). Murders during farm attacks in 2001 constituted about 0.69% of all murders in South Africa, and rapes about 0.13%.

Some 62.3% of all attacks in 2001 took place on farms and 37.7% on smallholdings. An analysis of the figures for the previous years seems to indicate that the proportion of farm attacks taking place on smallholdings has been increasing.

Farm attacks during 2001 were spread out fairly evenly throughout the year, with a slight decrease in December and January. This phenomenon is unexplained. Attacks could occur on any day of the week, although there was an increase on Fridays, possibly because farmers often have large amounts of cash ready for the workers' wages on that day. About one third of attacks took place in the evenings. The rest were spread out through the day, with the least occurring during the night.

About half of all farm attacks took place inside the house, and about a third just outside or in the immediate vicinity. The rest took place elsewhere, such as at a farm stall or on the farm road.

There were 1398 victims of farm attacks in 2001. Of those 147 or 10.5% were killed, and 484 or 34.6% of the victims were injured. About 12.3% of the female victims were raped. It should be noted that 71% of all rape victims were black. If one looks at the previous four years, it would seem as if the proportion of white rape victims, as against black rape victims, has decreased.

The attackers used firearms in 63.8% of the incidents in 2001. A variety of other weapons were also used, although in 11.7% of the cases the attackers were actually unarmed.

Money was robbed in 31.2% of the cases, firearms in 23.0%, and vehicles in 16.0%. Other popular items were cellular telephones and other valuables. There is a very common misconception that in a large proportion of farm attacks nothing is stolen. That is not so: investigations by the Committee have shown that various items are stolen in by far the greater majority of cases, and, in those cases where nothing is taken, there is almost always a logical explanation, such as that the attackers had to leave quickly because help arrived.

The Committee identified some 2 644 cases on the NOCOC database for 1998 to 2001 where the apparent primary motive was obvious. In 89.3% of those cases the motive was clearly robbery, in 7.1% it was some form of intimidation (such as crops or buildings being burnt down), in 2.0% some political or racial motive could be discerned, and in 1.6% it was labour related, such as a dispute over wages. In those cases where intimidation, political or labour related motives were present, robbery was almost always committed as well. In about 900 other cases on the database there was either another motive present, such as rape, or apparently nothing had been stolen. Upon closer investigation, it was established that in almost all the latter cases something had in fact been stolen, of that there was another rational explanation for the fact that nothing had been taken.

Of the 1398 victims in 2001, 61.6% were white, 33.3% black, 4.4% Asian and only 0.7% coloured. If one looks at the previous four years, it would seem as if the proportion of white victims are decreasing and the black victims increasing.

About 37.1% of the victims in 2001 were 39 years old or younger, 34.4% were between 40 and 59, and 28.4% were 60 years or older. Some 59.2% were male, and 40.8% female. The farmer or manager and his dependant constituted 69.7% of the victims, while farm workers and their families made up 29.5%. A few visitors to the farms also fell victim to attacks.

### **3 EXAMPLES OF FARM ATTACKS IN GENERAL**

Farm attacks selected by the Committee for in-depth studies are all of a very serious nature. Most cases in general are not as serious as those in the case studies, and they are therefore not necessarily representative of all farm attacks. There are other common misconceptions as well, e.g. that rapes are common during farm attacks, that all victims of farm attacks are white, or that little or no attention is given to black victims of farm attacks, etc.

It might therefore be useful to look at a sample of farm attacks in general. The Committee therefore decided to put a synopsis of all 82 cases on the NOCOC database for December 2001 in the Report. (That was the last month on the database that the Committee used.)

In the 82 incidents there were approximately 126 victims. (The exact number is unknown.) Fourteen or 11.1% were killed, a little more than the 10.5% average for the whole year. Forty three (34.1%) were injured, the average for the year being 34.6%. In terms of fatalities and injuries it was therefore a very average month. There were six rapes (4.8%), while the average for the year was 5.0%. (There was also one attempted rape.)

Of the 126 victims only 56 (44.4%) were white, which was considerably lower than the annual percentage of 61.6%. The reason may be partly that in some cases a large number of (black) farm workers were present and were also held up while the (white) farmer was being robbed. They were therefore also regarded as victims. Of the 56 white victims, 11 (19.6%) were killed and 26 (46.4%) injured. Of the 68 black victims 3 (4.4%) were killed and 17 (25.0%) injured. Of the 6 females raped, two were white. The phenomenon that a greater proportion of white victims are killed or injured during farm attacks, was detected by the Committee on the basis of other statistics as well, although, as pointed out above, the December figures may be skewed somewhat because of the presence of so many 'passive' black victims in some cases.

In about half of the cases, the victims were overpowered by the attackers inside their own homes or in the immediate vicinity. This happened in the case of 25 'white' homes and 15 'black' homes. There are also certain other recurring scenarios in the examples, that the Committee came across frequently in other case studies as well, that can be highlighted:

- The farmer is ambushed on his return to the farm or smallholding.
- The farmer withdraws a large amount of money at the bank and is followed by the attackers and overpowered. The farmer is attacked in his office where there is a large amount of money.
- The security guard is attacked while protecting the farm.
- The domestic worker in the farmstead is attacked while her employer is absent.

From the above it is clear that the December 2001 statistics correspond to a large degree with the statistics for the whole year. That is one indication that the examples are a valid sample of farm attacks in general, committed during 2001. The 82 cases confirm many of the conclusions that can be drawn from looking at farm attacks in general. Farm attacks can take many forms but certain patterns can often be discerned. In fact, the similarity between some farm attacks is quite noticeable. These recurring patterns enable one to generalise on the nature of farm attacks and to take preventative measures on that basis.

#### **4 CASE STUDIES: DIRECT ATTACKS**

The agricultural unions submitted a list of cases of farm attacks that they thought should be specially investigated, including cases where the motive might have been something other than mere robbery, and cases where there had been extreme and gratuitous violence. The Committee itself also drew up a list of cases from various sources which warranted further attention. As a basic source of information the Committee used the NOCOC database of more than 3500 cases for 1998 to 2001.

Upon further investigation a very large proportion of these cases turned out to be nothing more than ordinary robbery or attempted robbery, albeit often very violent. Nevertheless, the Committee then made a random selection of 45 cases to be studied in detail. In addition, the Committee also looked at a criminal gang that terrorised smallholdings in the De Deur area in 1995 and 1996. For the case studies the Committee perused the police dockets, the files at the offices of the various Directors of Public Prosecutions and the court records. In many cases interviews were also conducted with investigating officers and prosecutors, and in some cases the victims and perpetrators were also interviewed.

In the Report 41 of the case studies are described in fairly great detail. It would be impossible to understand the emotions and anger created by farm attacks amongst the farming community without looking at the details of specific cases. Furthermore, some publications, and specifically the Human Rights Watch report *Unequal protection: the State response to violent crime on South African Farms*, have avoided describing those serious cases at all.

The oldest farm attack that the Committee could get relatively full information about was that in which Mr Gustav van Aart was killed in the Free State in 1991. There are also a few cases dating from 1992, 1994, 1995 and 1997, but most cases date from 1998 onwards. The case studies include some of the well known cases often referred to by commentators on farm attacks.

The selection of cases can be criticised on three grounds: firstly almost all of them fall in the category of very serious farm attacks; secondly, there were relatively few black victims involved; and thirdly, only two of the attacks occurred on smallholdings. Nevertheless, although the 45 case studies cannot be regarded as a valid sample of farm attacks in general, they were analysed by the Committee to discover common features. However, the frequency of a certain set of circumstances in the case studies should not be taken as an indication of its incidence in general. For example, the proportion of cases where there are fatalities, or overt political overtones, is much smaller amongst farm attacks in general than in the case studies.

In 7 of the 45 cases there was evidence that the attackers had prior knowledge of the circumstances obtaining on the targeted farms or smallholdings, while in 6 cases they had reconnoitred the areas. In two cases they approached the farm on some innocent pretext, such as wanting to buy something. In nine of the cases the victims were ambushed away from the farmhouse, perhaps while travelling along the road, while in eight cases the attackers broke into the house while the owners were away and waited for them to return. In four cases the employees or other inmates of the house were overpowered and tied up first by the attackers, who then waited for the farmer to return. In two cases the attacks were thwarted, while in the rest of the cases the victims were overpowered inside the house. In 26 (57.8%) of the case studies the attack took place inside the house, compared to 50.8% for farm attacks in general during 2001.

In the 45 cases there were a total of 110 victims, with an average of 2.4 victims per case. The average for farm attacks in general in 2001 was 1.4 victims per incident. In all but 8 of the cases murder was committed, a total of 49 (44.5%) of the victims being killed, including a young girl. This is much higher than the national average of 10.5% for 2001, which emphasises the seriousness of the case studies. In two cases the victims were killed while trying to flee from the attackers, in four cases they were killed while offering some resistance, and in at least six cases the victims were killed execution style, sometimes even with their hands tied behind their backs. In a few cases there was some logical reason for killing the victims, such as to prevent later identification, but in no less than 32 instances (71.1%) it would seem that there was no real reason for killing the victims. Eight of the victims were black and two coloured. One black and one coloured victim were killed.

In the case studies six of the victims were raped, making up 5.5% of all the victims or 11.1% of the 54 female victims. This corresponds very well with the general figures of 5% and 12.3% respectively. One of the victims raped was a young girl, and one was a coloured

farmwife. In fact, most of the rape victims of farm attacks in general during 2001 were black women.

Twenty two (20.0%) of the victims were assaulted, the severity of the injuries varying from slight to very serious. This compares to 34.6% of victims assaulted in farm attacks in general during 2001. The reason for the low percentage in the case studies is probably that so many victims were killed. Three of the injured victims were black. One young girl was injured very seriously.

The ages of 80 of the victims are known. Seven (8.6%) were under 20 years, 11 (13.8%) were between 20 and 39 years, 28 (35.0%) were between 40 and 59 years, and 34 (42.5%) were 60 or older. The youngest was 5 years of age and the oldest 86. (In two cases there were also babies, but they are discounted for statistical purposes.) One can therefore see the large preponderance of middle aged and especially elderly victims. The percentages in each category for farm attacks in general are 5.9%, 31.2%, 34.4% and 28.4%. The victims' ages in the case studies therefore tended to be older. It may therefore confirm the impression of the Committee, for which there is no objective data at the moment, that elderly victims are more likely to be killed than their younger counterparts. The reason may have to do with the relative frailty of the elderly or the fact that some of the elderly victims are less able to handle the situation during a farm attacks. In one of the case studies, which the Committee thought appropriate not to identify, the son was overpowered and tied up. When the father then arrived, he started an altercation with the attackers, and was summarily shot dead.

In 42 of the case studies, robbery was committed. Nothing was stolen by the attackers in only three of the cases. In two of those cases the victims drove off after being ambushed and wounded in their cars, while in the third the attack was thwarted when the police arrived on the scene, but even in these three cases it can be said with a fair degree of certainty that the primary motive for the attacks was robbery. Unfortunately the statistics in this regard for farm attacks in general are inconclusive. In six of the cases revenge was mentioned as one of the motives, while in seven cases there were overt racial or political overtones. (In one of these cases, however, the purpose of the racist remarks was patently to mislead the police.) In all the cases where the motive might have been revenge or of a racial or political nature, the attackers also robbed items. One also cannot exclude the possibility that some of those attackers who claimed that the attacks had been motivated by political or racial issues, did so in order to evoke some sympathy.

It is clear that the items most sought after by the attackers were money and firearms, while items such as cellular phones were also in demand. Very often the victims' motor vehicles would also be loaded with loot and driven away. In farm attacks in general during 2001, money was robbed in 31.2% of the cases, firearms in 23.0% and vehicles in 16.0%. The differences may be ascribed to the fact that the majority of the attacks in the cases studies took place on farms, where weapons were more likely to be found.

In the case studies firearms were used in 33 (73.3%) of the attacks. This compares to the 63.8% for farm attacks in general. The difference is probably due to the fact that the case studies all fall within the very serious category. In several cases the firearms used to assault or kill the victims had actually been stolen or robbed from the victims themselves, while five of the firearms used had been stolen on another farm. Some of the most vicious attacks, however, were carried out with other weapons, such as knives.

There were at least 114 attackers involved in the 45 case studies. (In some cases there might have been more than the known number of attackers.) There were therefore an average of 2.5 perpetrators in each attack. Four of the attackers were killed by the security forces or other farmers. In six cases the perpetrators could not be traced or there was insufficient evidence for a prosecution. Two of the prosecutions led to an acquittal because the State could not prove the case. In the other 36 cases some 78 accused were convicted. Their ages varied between 15 and 47, the average being 25.5 years. Most were in their twenties.

Fifty eight accused were convicted of murder. The death penalty was imposed on two of them (four times on one accused for four murders). One later received amnesty from the Truth and Reconciliation Commission, while the death penalty of the other one was commuted to life imprisonment after the abolition of capital punishment. Thirty one were sentenced to life imprisonment for the murders, including nine with double life sentences, while the others received sentences of imprisonment varying between 15 and 50 years. There were three sentences of less than 20 years, the accused being 16, 18 and 23 years old. On the other hand, some accused of below 18 also received sentences in excess of 20 years.

Sixty two of the accused were convicted of robbery or housebreaking with intent to rob and robbery. They all received sentences of imprisonment of between 6 and 25 years. Most, however, varied between 10 and 20 years imprisonment.

Six accused were convicted of rape. Life imprisonment was imposed on one, while the sentence of the others varied between 9 and 20 years.

The sentences imposed on the accused in the case studies were almost all very severe. The only exceptions were sentences imposed on a couple of youngsters and one accused who had a lesser role to play in the farm attack. The Committee also thought that the sentences of 9 and 10 years imposed on two rapists respectively in one case were too light. These relatively light sentences were the exceptions, however.

## **5 CASE STUDIES: LAND INVASIONS**

During the early months of its research the Committee became aware of cases of illegal occupation of farm land. It heard submissions about some of these cases, and Committee members also visited some of the affected areas – Mangete, Nonoti and Nqabeni in KwaZulu-Natal, and Daveyton in Gauteng.

In Mangete, near the KwaZulu-Natal north coast town of Mandeni, where land is owned and farmed by descendants of 19<sup>th</sup> century settler John Dunn and his Zulu wives, illegal occupants have been moving on to this land since 1993. In 1995 the landowners launched an action in the High Court for the eviction of squatters, which resulted in a formal claim to farm land being submitted by Chief Mathaba of the neighbouring tribal authority area, who was allegedly orchestrating the invasions. The High Court action was suspended while the claim – which was referred to the Land Claims Court for adjudication – was in progress. Nothing was done about the illegal invasions by Government departments and

the police, and people, many of whom were not even claimants, continued to move on to this private land. Under pressure from the Land Claims Commissioner, the landowners agreed, in 2001, to defer court proceedings with a view to reaching an out of court settlement. The farmers have been subject to numerous acts of violence, especially theft and arson/malicious damage to property- and have been unable to develop properties because of the outstanding claims. They are extremely unhappy about the conduct of the police and the Regional Land Claims Commission, and had decided to return the matter to the Land Claims Court when the office of the Regional Land Claims Commissioner announced in the media, in November 2002, that there had been a settlement. The Mangete Landowners were not, however, provided with any details about the reported settlement, and none of the illegal occupants moved from their land. In April 2003 the Chairperson of the Mangete Landowners' Association, Pat Dunn, and her husband, were attacked in their home and Dunn's husband was seriously injured.

In the Nonoti area, not far from Mangete, to the south of the Tugela River, which has historically been farmed by farmers of Indian origin, invasions have been taking place since the pre-1994 period, with allegations that land illegally occupied has been 'sold' by outsiders. Farmers had tried to use legal means to deal with the problem, but police were allegedly not prepared to implement interdicts obtained. Farmers claimed that crime had increased, and that they had had to abandon their farms or employ armed security guards.

The situation in Nqabeni, near Izingolweni, KZN south coast, was similar in many ways to that in Mangete. Invasions of farms owned by people classified under apartheid as 'coloured' had started around 1994. One of the farmers had obtained an eviction order in 1996 but the sheriff, when attempting to implement it, had been shot at, and no further attempts had been made to remove the occupants. Only a portion of these farms, which were adjacent to a 'tribal' area headed by a traditional leader, were still under cultivation by the owners because of this encroachment. Workers were intimidated and the police, according to the farmers, refused to intervene. Farmers provided examples of intimidation and attack, and the consequences suffered, e.g. fencing was cut up and left lying around, and in 2000 the wife of one of the farmers was shot, kicked, stabbed and left for dead. This farmer and his family had subsequently moved off their farm, but they still owed money because of farming debts they had incurred. There were perceived racial overtones to what was happening, in that a farm in the area bought by black ex-policeman had not been attacked, and nor had white farms in the area been invaded. Land Affairs, it was claimed, had been of no assistance whatsoever, and its staff had not even turned up when meetings had been arranged.

Other Kwa-Zulu Natal areas in which illegal invasion of farm land have been taking place are Verulam/Hazelmere, north of Durban, and Kranskop, in the Greytown area. There have been a number of attacks on farmers of Indian origin in the former area. According to the local station commissioner, those occupying land illegally included not only locals, but also persons from as far afield as the Transkei; once again there were allegations that land was being 'sold' by persons who did not own it.

In August 2002 threats were made against farmers in Kranskop following the shooting dead of an alleged poacher on one of the farms, by a member of a private security company employed by the farmers (this security guard was subsequently convicted). After this incident persons from the neighbouring tribal authority area handed farmers a memorandum, listing a number of grievances, and threatening 'Zimbabwe-style' land

invasions. Prior to this shooting incident, however, there had been a number of other events – including the invasion of the farm owned by one of the local black farmers, continued poaching, and the killing of a white farmer (one of the cases investigated in depth by the Committee) indicative of possible tensions between farmers and members of the neighbouring black community. A land restitution claim was gazetted in March 2003; according to the Regional Land Claims Commissioner this claim had been lodged before the cut-off date in 1998.

In addition to matters followed up by the Committee, there have been media reports of land invasions in KZN (Vryheid), as well as complaints about unacceptable levels of performance of the Land Claims Commission in the province.

Between 2000 and 2002 some 50 000 squatters occupied the farm of Mr A C Duvenhage, Modder East, near Daveyton. He went through the correct legal channels obtaining an order of the High Court on 2001/04/12 for the squatters to vacate the land. The order had no effect on the squatters and the Sheriff required Duvenhage to deposit R 1.8 million into a trust account before she would act. This amount later escalated to R 2.2 million. Repeated appeals by Duvenhage to the State President, the Minister of Safety and Security, the Minister of Agriculture and Land Affairs and the responsible Municipality itself drew no response. Duvenhage then approached the High Court again on 2002/10/12.

The court found in its judgement on 2002/11/20 that in essence the case was about the effective execution of the original court order after compliance with all the provisions of the Prevention of Illegal Eviction and wrongful occupation of land at no 19 of 1998.

It found that Duvenhage was being deprived of his constitutional rights to property and that the Government had a constitutional duty to give effect to the original eviction order. This meant that provision also had to be made for alternative accommodation for the squatters. The court further ordered the Government to submit a comprehensive plan to give effect to the court order. The Government has appealed against the judgement but the case is still pending.

## **6. VICTIMS OF FARM ATTACKS**

The Committee interviewed a total of 51 persons in Gauteng, North West KwaZulu Natal and Mpumalanga. They included 36 victims. They included victims who survived the attacks, 28 other persons closely connected with them and also some ‘outsiders’ with no direct connection with the victims but had knowledge of the incidents. The Committee also analysed the circumstances surrounding the attacks.

Most of the 18 (56%) incidents took place at the weekend, often on a Sunday. In most incidents (72%) the victims were confronted and surprised by the attackers inside their homes or on their property. The perpetrators spoke in various languages. Interestingly enough more often than not the victims were able to speak the African language being used by the perpetrators. The perpetrators mainly demanded money or firearms (in one case stealing R26 000 worth of firearms). Other items such as cellphones, watches and jewelry were also taken.

In 50% of the incidents the victims were either shot at, beaten, kicked, slapped or stabbed and in 39% of incidents 10 people lost their lives. In 44% of the cases the victims were

treated in a rather cruel manner. In 22% of the cases the victims were unharmed. The financial implications for the victims were enormous but the psychological trauma suffered is inestimable. The injuries sustained by the victims in the study were similar with those described in other reports on farm attacks. In 28% of the incidents the perpetrators displayed an aggressive attitude, although in only one incident were overt racial expressions used.

The farm attacks changed the lives of the victims in all the cases under scrutiny. In 11% of the cases the victims have moved from the farms but those remaining had to change their lifestyles altogether. The farm attack had made them more alert and careful as well.

Almost 90% of the victims thought that they had a good relationship with their workers. In many cases that relationship did not change after the attack and in some cases grew stronger. In other cases there was a lack of trust which the farm workers experienced negatively. Most of the victims used their market radios to call for help from other farmers and Commando members in the area. One victim managed to press the panic button, possibly saving their lives.

The majority of the victims were dissatisfied with the conduct of the police to varying degrees. Some even saying that the police members had been drinking. In a few cases the police response was described as excellent.

It was clear to the Committee members interviewing the victims that the security measures on the farms were quite insufficient. Some victims improved their security systems after the attack. In 61% of the incidents the perpetrators were arrested whilst in a further 17% of the cases three suspects were shot dead by the police or farmers. Less than half of the cases had proceeded to court at the time of the interviews. In the incidents that were finalized by the courts the average sentence handed down to the accused was 33 years which is typical in all farm attack cases. Half of the victims thought that farm attacks in general were politically motivated but interestingly enough they did not think that was so in their particular case. Only a third thought that robbery was the main motive for farm attacks in general.

The Committee also conducted interviews with 17 farm workers to obtain their perspectives. Only one of the farm workers was an actual victim, being overpowered while her employers were away; the others were merely in the immediate vicinity. It is clear however, that the farm attacks had a great impact on all of them. They became worried about their own safety and future and also that of their employers. The majority of the farm workers were psychologically affected by the attack. They too described their relationship with their employers as good but their relationship with other farmers in the vicinity deteriorated markedly after the attack. None of the farm workers were involved in security measures of the farmers.

All the victims (farmers, farm workers and their families) interviewed, suffered trauma. Most of them had not been for counseling and the lack of such facilities in rural areas is of great concern.

## **7. PERPETRATORS OF FARM ATTACKS**

The Committee only interviewed 8 perpetrators of 5 farm attacks. The major reason being that a comprehensive study had recently been done by two researchers from Technikon South Africa in which 48 offenders had been interviewed.

The Committee interviewed 8 perpetrators linked to 5 different attacks. Most of the perpetrators were young unemployed individuals with a low standard of education. By far the majority came from dysfunctional families. Some of the perpetrators denied involvement in the attacks for which they were convicted.

The two admitting involvement in farm attacks said their motive was robbery and in fact in the Mistry and Dhlamini study robbery was given as the primary motive by 90% of the perpetrators. The perpetrators, in selecting their target, had studied the movements of the inhabitants on the farm. Furthermore, in some cases they had information that the farmer had money, firearms and jewelry in the house. In four of the cases the victims had been killed, either being shot or stabbed. In the Mistry and Dhlamini study the most prevalent forms of violence were burning, strangulation, stabbing and shooting. Half of the perpetrators said that the victims could have avoided the violence by not being confrontational.

An important aspect emanating from the study was that many of the perpetrators never thought they would be caught by the various security agencies. According to the Mistry and Dhlamini study more than half of the attackers were not afraid of being caught by the police or the Commandos. All the perpetrators received long periods of imprisonment, several serving life sentences. This corresponded with the Mistry and Dhlamini study. In both studies the perpetrators felt that their sentences were unfair. Most offenders felt guilty about the attacks however, because they knew that they had done wrong and they were concerned about their own families.

## **8. INVESTIGATING OFFICERS AND PROSECUTORS**

Focus group interviews were conducted with about 50 investigating officers in the Eastern Cape, Free State, Gauteng, KwaZulu Natal, Limpopo, Mpumalanga, Northern Cape and Western Cape. Additional interviews were undertaken telephonically.

Most of the investigating officers began taking notice of farm attacks round about 1994. Prior to that there had been robberies on farms but they had not been labelled farm attacks. All agreed that farm attacks had increased over the last four or five years. Most of the investigating officers said that there were very few black farmers in their areas.

General features of farm attacks that the investigating officers stressed are the following; perpetrators obtained information from present or former employees, the movements of the inhabitants of the farm are studied beforehand, the perpetrators were not professional or highly organized – they typically arrive on the farm on foot and steal the farmers vehicle to make a getaway. They work in groups of three or four. Telephone wires are often cut and it is rare for perpetrators to leave without taking anything. When they do they are either disturbed or panic. Victims are often tied up. Rapes are not common.

All the investigating officers are of the opinion that the primary motive for the greater majority of cases— perhaps 90% - is robbery. They are also of the view that farm attacks are not politically motivated and that there is no evidence of an organized structure behind the attacks. There is a perception amongst perpetrators that farmers are wealthy and any business conducted on the farm is a precipitating factor. Perpetrators also expect to find firearms on the farm. In the odd case of revenge being a motive the investigating officers are of the view that a labour dispute triggered the incident.

According to investigating officers the victims include farmers and farm workers alike. They highlight the danger for elderly people and cite both black and white people being robbed and killed. According to these officers the victims are shocked and angry and some think the attacks were politically motivated. A few perceived farm attacks as racist.

The perpetrators are typically young unemployed black males aged between 18 and 35. Some investigating officers estimate that half of the perpetrators have previous convictions. Victims may be killed to prevent perpetrators from being identified.

Most of the investigating officers are of the opinion that the relationship between the farmers and their workers changes in one way or another after an attack. In some instances farmers harbour feelings of hatred towards their workers whilst in other instances the opposite occurs.

In general, investigating officers describe security measures on farms as inadequate. Investigating officers generally agree that there is no difference in the level of violence used in crimes on farms and those in urban areas. All the investigating officers are very experienced and it is clear that they deal with farm attacks as a matter of priority. They are of the opinion that that the conviction rate for farm attacks ranges from 50 to 90%.

The Committee also interviewed 15 prosecutors – all of them state advocates – in Bloemfontein, Cape Town, Kimberley, Pretoria and Pietermaritzburg. They were unanimously of the view that farm attacks were non political in nature. At the same time the degree of violence and cruelty exhibited during farm attacks was exceedingly high. Most state advocates attributed this extreme violence to racial hatred.

All confirmed that relatively few cases of rape occur during farm attacks. The farm attacks were generally well planned proceeded by reconnaissance but they were not carried out with ‘military precision’.

They all said that on many farms the security was inadequate. They confirm the view of investigating officers that there is a high success rate for solving farm attacks and an even higher success rate for prosecutions.

Investigating officers recommended that farmers should screen their workers and include workers in all security plans, that security be improved on farms and that farmers become vigilant about their surroundings. They also advocate the sector policing model.

Prosecutors also said that the sector policing plan held promise. Potential victims should be trained on how to respond to farm attacks.

## 9. SUBMISSIONS TO THE COMMITTEE

The Committee invited interested persons and bodies to make submissions on the question of farm attacks. The Committee heard submissions from 32 persons, on behalf of themselves or of the organisation they represented. Twenty three written submissions were received. The Committee attempted to obtain as wide a range of opinion on the subject as possible, but only the most prominent ones can be referred to here and only the most salient points can be summarised here.

Several agricultural organisations made verbal as well as written submissions. On behalf of Agri SA it was submitted that there was more behind farm attacks than mere criminality. There were also underlying reasons such as: the culture of violence; the culture of self-enrichment; poverty, unemployment and the disparity of wealth; revenge and hate emanating from the past; racism; the perception of bad relationships between farmers and workers; and inflammatory statements by prominent people. Agri SA also referred to deficiencies in the criminal justice system, and stressed the importance of the Rural Protection Plan and the commando system.

The Transvaal Agricultural Union submitted that there was a perception that farmers were being killed systematically. People who might benefit from farm attacks, might be criminal gangs and warlords, but also people who wanted the land. In the African culture it was easier to accept socialism, and that could bring disrespect for private property. At a subsequent sitting of the Committee the TAU also responded to the Human Rights Watch publication, *Unequal protections: the State response to violent crime in South Africa*.

The National African Farmers' Union indicated that it differed with Agri SA on the issue of land reform and development. The price of land should not be market driven, but be based on its productive value. On the other hand, black people should leave communal farming and farm commercially.

The Mangete Landowners' Association drew the Committee's attention to the large-scale land invasions taking place in the Mangete area, and the accompanying acts of intimidation.

On behalf of the Action: Stop Farm Attacks and Agricultural Employers' Association, it was submitted that farm attacks were unique: they involved almost exclusively black on white violence; in many cases nothing was stolen; and in most cases the attackers waited for the farmer to return, only to kill him and rape his wife. The motives for farm attacks lay in hatred for whites, hatred for farmers, and the desire to drive the farmers off the land.

Submissions by the security forces came, firstly, from the Component Operational Coordination of the SAPS. Ass Comm. Burger pointed out that the agricultural unions represented less than half of all the commercial farmers, and this created problems with the implementation of the Rural Protection Plan. He explained the concept of sector policing, and how it could promote rural safety by mobilising the community. He specifically denied that the SAPS were apathetic towards farm attacks. He saw the increase in farm attacks as part of the increase in crime in general.

The Crime Information Analysis Centre of the SAPS explained how statistics on farm attacks were collected, and the problems being experienced in that connection. Although

the situation had improved, there was a large degree of underreporting. There was no evidence of an organised campaign against farmers, and it was a waste of time to look for a responsible organisation, and they indicated that they were satisfied that the motive for almost all farm attacks was robbery

The Serious and Violent Crime Unit of the SAPS in the Bushveld area described the manner in which farm attacks should be investigated. It was an integrated process, involving various units of the police, army and the farmers themselves. The overwhelming majority of farm attacks were nothing more than robbery.

Chief Joint Operations of the SANDF referred to the problems in connection with the collection of statistics and confirmed that the statistics prior to 1998 were suspect. The submission looked at causal factors for farm attacks, and especially problems around security. In a follow-up submission, the matter of 'battle indicators' (signs to assist the farm attackers) were discussed in detail.

Other Government Departments and non-governmental organisations also made verbal and written submissions. The Centre for the Study of Violence and Reconciliation referred to the problem of juvenile offenders. The Human Rights Commission were concerned about the welfare of the farming community as a whole, and particularly of the workers and tenants. The representative of the Department of Land Affairs referred to the widespread violation of the land legislation, primarily in the form of illegal evictions. The Lawyers for Human Rights also stressed that farm attacks should be looked at in the context of rural security as a whole.

The National Land Committee stressed abuse and attacks by farmers and security companies on workers. They said that the Rural Protection Plan focussed only on farmers and, furthermore, that the whole criminal justice system was biased, giving more attention to white farmers than farm workers.

The Freedom Front Party, on the other hand, tendered a written submission, saying that the Afrikaners, in particular, were murdered, tortured and assaulted on the farms. The murder rate for farmers was 274 per 100 000 – more than four times the national figure. Crime was decreasing, but farm attacks were increasing. Farm attacks were inter-racial, well planned and very violent.

Individuals with expert knowledge about aspects of farm attacks also appeared before the Committee. Mr J. Geldenhuys dealt with the problem of security and personal safety on farms. Dr C.L. Jordaan, a geo-strategist, dealt with the issue of land, comparing South Africa with other countries. Mr J. Steinberg described his research on farm attacks and rural safety, especially in the Ixopo and Tzaneen areas. Ms H.C. van Wijk, a traumatologist, explained the impact of trauma on the victims of farm attacks. Prof Zulu, a sociologist, referred to research he had conducted which showed that land held a variety of meanings for different black African people and for different communities.

Other individuals included Mr D. Martin, who gave the Commission information about a group called Tupac, with links to the PAC, involved in farm attacks. Mr R. Roman also dealt with the land issue. Other written submissions received by the Committee are not discussed in the Report, mostly because they relate to specific matters rather than to the

problem of farm attacks in general. Their contents are nevertheless noted and, where relevant, incorporated in the Report.

## 10. LITERATURE REVIEW

The Committee reviewed, summarised, and critiqued a fairly large body of literature dealing with farm attacks and related issues such as land reform.

Since 1997 inter-departmental security and intelligence committees, the SANDF and the SAPS Crime Information Analysis Centre (CIAC) have released reports based on available information about farm attacks. These reports are widely cited in other publications.

There are common themes in these reports:

- The overwhelming majority of farm attacks are attributed to criminal motives (robbery of guns, cash, cars, etc.) with some cases in which there is a revenge motive.
- The majority of victims are middle aged and elderly and are thus seen as ‘soft targets’.
- Perpetrators usually operate in groups and there may be urban-rural links; in some instances intelligence for the attack is provided by employees or ex-employees, and there is evidence of planning taking place before the actual attack.
- There is mention of isolated cases in which there are possible political motives, but in none of these instances was any link to organizational structures proven.
- There is a problem in conflating smallholdings and farms for statistical and analytical purposes.
- Those targeted include black as well as white victims.

However, in general, there are also points of criticism about these reports:

- The compilation of statistical information, which is of central importance to the analysis, has not always been satisfactory. The latest CIAC report has taken a new direction, however.
- There is a tendency to make ready generalizations without substantiation. For example, assertions are made about women being ‘usually’ raped, but there is little statistical detail to substantiate this. Nor is there any exposition as to why farm attacks are supposedly more brutal than other crimes, except in the last CIAC report. At the same time, not only are these statistics widely cited, usually uncritically, but these unsubstantiated generalizations are often picked up and used, selectively, to support interpretations that there is a hidden political agenda to attacks.

Several papers by researchers and academics, and one by Agricultural Union official J.M. Visser, writing in his personal capacity, also examine the causes of farm attacks and the prevention thereof. Researcher, Antoinette Louw, argues that it is essential to separate attacks on smallholdings from those on farms, since different strategies for dealing with these two categories of attacks may be needed. Citing dubious statistics (which are not sourced) she argues that the murder rate on farms is actually lower than that for the general population. Mark Shaw, claiming that the Rural Protection Plan had met with ‘some success’, points to the need to focus also on continuing attacks on smallholdings, and argues for more representation for small farmers and landless people on the Task Team looking at rural safety. Visser provides a statistical and descriptive overview of farm attacks, and lists some of the main factors contributing to these attacks. A paper by Professor Naude and Van Rensburg situates farm attacks in the broader economic context

and makes a number of useful recommendations concerning rural development which could be initiated by commercial farmers, business and Government.

The report by Mistry and Dhlamini is based on detailed interviews conducted with offenders who had been convicted for farm attacks. It provides a profile of these offenders, and concludes that farm attacks are not generally politically or racially motivated, but, for the criminally-inclined in depressed rural areas, farms were logical targets of relative wealth. The authors make a number of recommendations about preventive action which farmers could take. While providing a useful perspective on attacks, a problem with this approach – acknowledged by authors – is that answers given were not necessarily truthful.

A number of publications look specifically at farm attacks in relation to the land issue. Military researcher Haefele refers to tensions and emotions generated by land reform, suggesting that a sinister force was hindering reconciliation and the reconstruction of agriculture in South Africa. There is little of substance in this paper, and the arguments are disjointed and unsubstantiated.

In stark contrast, a monograph by criminologist C.J. Moolman is a detailed, scholarly attempt to explain farm attacks in the broader historical and political context, drawing on his own research as well as a large body of literature. The driving force behind these attacks, he argues, is an African nationalism which is a product of a clash of African and Western cultures, and the political resistance spawned by colonialism and apartheid. The focal point of the present struggle – which is manifest in farm attacks - is land, in the context of expectations of land restitution on the one hand, and the Government's tardiness in implementing its land reform policy, on the other. Moolman posits the existence of an African mindset, linked to African cosmology and a traditional way of thinking, which is associated with subsistence farming - which is diametrically opposed to the European mindset characterised by individualism, enterprise, free market economy and technological innovation, associated with commercial farming. He also suggests that there is a third, Socialist mindset, in which landowners are viewed as exploiters, and landless people as the exploited, and which is inimical to the demands of the world economy. By way of addressing the problem of farm attacks, the importance of speeding up the land reform process, and improving racial perceptions and relations, are stressed.

Similar, but less systematic and erudite, arguments are advanced in a memorandum by Action Stop Farm Attacks, and in a monograph edited by Van de Graaf and Dr Chris Jordaan (*Property Rights in South Africa*). A common theme in the latter publication is a strongly pro-Christian, anti-socialist, approach to land reform and private property

These land-related publications unfortunately present a distorted view of black African society because they draw on outdated and discredited historical and anthropological material in support of their arguments. Culture, which is learned, is by nature fluid and variable, and changes constantly to meet the demands of the wider society. Nor is there consensus about what constitutes 'African' identity. Furthermore, historians have shown that many indigenous communities in South Africa responded rationally and with great success to the demands of the 19<sup>th</sup> century market economy, before draconian steps were taken by the colonial government to force black people to sell their labour.

A paper on racial politics and land reform by Stellenbosch researcher W. van Vuuren, contrasting the emphasis on racial (black) factors in the 'Africanist' approach, as opposed

to the non-racism embodied in the Freedom Charter, points to the role of class in land policy. Citing the post-1999 shift in Government policy towards the development of a black commercial class, he warns that appeals to 'Africanism', as in Zimbabwe, may be used to cloak the interests of black capitalists at the expense of meeting the needs of the urban poor.

Relationships between farmers, and workers and other farm residents, are central to a report by academics R.W. Johnson and L. Schlemmer, and another by the international human rights body, Human Rights Watch. The Johnson and Schlemmer report was based on research, commissioned by the KwaZulu-Natal affiliate of Agri South Africa (now known as kwaNalu) in 1997/8, on relationships between farmers and workers in province. Although based on random sampling, there are certain gaps (major forestry and sugar farming enterprises are excluded), and the findings cannot be generalised to the country as a whole. The authors note that within the category 'farmer' there are sub-categories, and regional variations within the province insofar as their findings are concerned. Profiles of farmers are given, as are their major concerns (e.g. legislation, crime, environmental degradation through excess stock). Profiles of workers, who are generally 'settled working class' are also provided. Farmers were, on the whole, positive about their relationships with workers. Of the workers, only a quarter of the sample placed land ownership in their top two priorities, and only a small minority said relationships with farmers were not very good or bad (although there were some anomalies in answers given by workers who claimed relationships were good). Pointing to difficulties in accessing workers on farms, critics of the report questioned the independence and non-partisanship of research facilitated by employers.

The focus of the Human Rights Watch report, based on research carried out in conjunction with the National Land Committee, is primarily on abuses suffered by people living and working on farms, including at the hands of owners and managers, and the failure of the organs of State to deal with such abuse in an even-handed manner: Crimes against black residents, it is argued are not pursued with the same determination as those against white farmers. Some of the actions of commandos and security companies guarding farmers, and collusion between some farmers and vigilantes, it is argued, have increased insecurity among people living on and near farms, and a case study of events in Ixopo in 2000 is used for illustrative purposes. One chapter on violent crime against farm owners is superficial, and fails to capture the magnitude of the problem. The Transvaal Agricultural Union issued a document in response to this report, accusing Human Rights Watch of racism and war-mongering. There was also a response from the South African Police Service.

A monograph by M. Schönteich and J. Steinberg, and a separate report by Steinberg, deal specifically with the Rural Safety Plan, based on evaluation research they had conducted in several areas. They found that its effectiveness varied from one area to another, and response times of neighbours were often quicker than those of the police. They considered that the intelligence capacity of the police, which was important in preventing attacks, was 'weak'. The Plan needed to be adapted to respond to local needs and ensure acceptance and participation by local communities. For example, in Letaba, where participation in commandos was low, some farmers had joined the vigilante group Mapogo a mathamaga, and in the Mooi River area of the North West some farmers preferred to work through networks organised by the Transvaal Agricultural Union.

The Human Rights Watch report, too, makes recommendations about rural safety, stressing the need to build non-racial structures and ensure that the safety needs of all rural residents are accommodated.

Finally, this chapter provides a detailed description of the murder which forms the focus of Steinberg's book *Midlands*, and the events surrounding this murder, as well as a summary and critique of Steinberg's interpretation of this killing. Members of the Committee had interviewed the parents of the murdered man on their farm prior to the publication of the book, and deemed it to warrant a thorough investigation. The detail provided by the Committee shows that Steinberg presents a very partial and, in places, inaccurate account of events surrounding this murder, and concludes that its own investigations find no support whatsoever for the author's claim that the behaviour of the deceased's father contributed in any way to the murder. Nor could it find any corroboration for his argument that the killing was part of a drive in the area to remove white farmers from their land.

## 11. THE FARMING COMMUNITY

About 13% of South Africa's surface area can be used for crop production. High-potential arable land comprises just over a fifth of the total arable land. Commercial farmers own about four-fifths of the available commercial farming area in the country.

Primary agriculture contributes a bit over 3% to the gross domestic product (GDP) in South Africa, and provides almost 9% of formal employment. The broad 'agro-industrial sector' is estimated to comprise 15% of GDP. Despite the farming industry's declining share of GDP, it is crucial to the economy, development and stability of the southern African region.

It is impossible to accurately determine the number of commercial farmers in South Africa, as the available data is dated and geographically incomplete. This is unfortunate as an accurate figure of the number of farm and smallholding residents would permit a calculation of the risk such inhabitants face of becoming a victim of a farm attack.

According to Statistics South Africa, 11.8 million people were employed in the formal and informal sectors in South Africa in 2001. Of these, almost 1.4 million (11.8%) were employed in the 'agriculture, hunting, forestry and fishing' sector. Of these, 700 000 were employed in the formal sector and 653 000 in the informal sector. Between 1996 and 2001 almost 600 000 jobs were created in the broad agricultural sector (formal and informal).

Three unions represent the commercial agricultural sector in South Africa: Agri South Africa (Agri SA), the Transvaal Agricultural Union of South Africa (TAU), and the National African Farmers Union (NAFU).

Agri SA claims to have more than 200 agri-businesses, some 45 commodity organisations and nine provincial agricultural unions as members. The organisation also claims to represent 31 000 large-scale and 30 000 small-scale commercial farmers.

According to the Transvaal Agricultural Union – South Africa (TAU), its membership was around 6 000 to 7 000 in 2001. The TAU estimates there were approximately 40 000 commercial farmers in South Africa in 2001, excluding subsistence farmers, smallholders

and farm managers.

The National African Farmers' Union (NAFU) was established in 1991 for black farmers who had previously been excluded from mainstream agriculture. According to the NAFU, it had 45,000 members in 1998. However, because the NAFU could not provide all the services which farmers need its membership had decreased to some 20 000 members by 2001.

The Agricultural Employers' Organisation (AEO) was established in 1990 claiming to represent thousands of farmers countrywide. The AEO's mandate includes giving attention to land affairs, and safety matters – the latter is done in conjunction with 'Action Stop Farm Attacks'. A countrywide signature campaign launched by Action Stop Farm Attacks in 2000, in protest against the high number of attacks on farmers, collected 372 000 signatures within a six-month period.

## **12. CRIME IN SOUTH AFRICA**

Contrary to popular perception, levels of recorded crime did not suddenly increase after 1994. Recorded crime increased fairly consistently after the mid-1980s, especially in the early 1990s. Between 1994 and 1997, recorded crime increased at an average of only 1% per year. Thereafter levels of recorded crime, measured from one year to the next, increased at an escalating rate, stabilising slightly in 2001/02.

While murder levels declined after 1994, overall levels of violent crime have experienced the greatest increase compared to all other crime categories. Between 1994 and 2000, violent crime increased by 34%, property crime by 23% and commercial crime by 9%.

Recorded crime rates differ significantly between provinces. In 2000, the Western Cape and Gauteng had the highest provincial per capita rates for most crime types. By contrast the Northern Province had the lowest rates in 13 out of the 15 serious and prevalent crimes recorded by the police.

A comparison of city crime rates shows that Johannesburg has by far the highest incidence of serious crime – both violent and property – followed by Pretoria, Cape Town and Durban. Victimization varies substantially from one part of the country to the next. All South Africans are not affected by crime to the same extent, and solutions to crime problems need to be based on local crime patterns.

By global standards South Africa has high levels of violent crime. Every third crime recorded in South Africa is violent in nature. A comparison of murder rates shows that South Africa has by far the highest rate in the southern African region.

There is no one satisfactory explanation for South Africa's high levels of crime – especially the high levels of violent crime. Rather, there are a number of explanations which help to explain the high levels of crime plaguing the country. Such explanations consider the impact of the country's on-going political and socio-economic transition, the connection between the country's violent past and contemporary criminal behaviour, the impact of the proliferation of firearms, the growth in organised crime, changes in the

demographic composition of the country, and the consequences of a poorly performing criminal justice system on levels of serious crime.

Like the rest of South Africa, KwaZulu-Natal experiences high levels of criminal violence. However, there are long-standing political dynamics in certain parts of the province that add a dimension to violent crime which impacts on the safety of rural residents, including farmers, up to the present time.

The violent political struggles in KwaZulu-Natal in the 1980s spawned a phenomenon termed 'warlordism', in which powerful men controlled territories and personnel through a combination of force and patronage. The political violence and the violent behaviour of warlords and their foot soldiers resulted in widespread death, destruction of property, displacement of whole communities, disruption of family life, and permanently traumatised children. In essence, it entrenched a culture of violence in the province.

Today, many of the killings in rural KwaZulu-Natal go virtually unnoticed and are usually dismissed as 'faction fighting'. Yet the violence has become entangled with issues varying from political conflict and boundary disputes, to taxi-violence and stock theft. This continuing culture of violence impacts upon farmers. Firstly, in conflict-ridden rural communities where true freedom of political activity does not exist, farmers may still be perceived (rightly or wrongly) as politically aligned rather than neutral bystanders. Secondly, political foot soldiers serving a rural warlord, for example, may rob, rape and kill for purely criminal gain, since they are armed, and make a living out of violence.

### **13. THE CRIMINAL JUSTICE SYSTEM AND FARM PROTECTION**

South Africa's criminal justice system is not performing optimally. Overall fewer than half of all recorded crimes are detected, and on average fewer than one out of ten cases recorded by the police result in the conviction of the perpetrators.

Once criminal cases are successfully processed through most of the criminal justice system, with the suspects ending up in the accused box in court, their chances of being convicted are high. There is persuasive anecdotal evidence to conclude that the success rate for the prosecution of farm attack cases is significantly above the average.

An important reason for the low detection rate in South Africa is that, compared to the mid-1990s, there are fewer functional police officers dealing with higher levels of crime. Detectives are overloaded with cases, with the result that many cases are not dealt with expeditiously, and police officers in the country's rural areas are thinly spread. This is being addressed, however, through the recruitment of an additional 30,000 entry-level police constables by early 2006.

In late 1997 the Rural Protection Plan was launched. The object of the Plan is to encourage all role players in rural safety to work together in a coordinated manner, and engage in joint planning, action and monitoring to combat crime in the country's rural areas. During the four years after the launch of the Plan the number of recorded farm and smallholding attacks increased. The Plan's success appears to vary from one geographic area to the next.

A key component of the Rural Protection Plan – the commandos – are to be phased out by the end of the decade. The police service intends launching two initiatives in respect of rural safety which are intended to replace the commandos: Area Crime Combating Units and Sector Policing.

The proposed sector policing strategy may be able to overcome some of the police's problems in respect of policing rural communities. With dedicated police officers or police reservists for geographically defined areas, and greater community interaction with sector police personnel, the police will be in a better position to collect crime intelligence and encourage public cooperation in the detection of crime. However, given the size, geographic isolation and dispersion of many rural areas, a policing strategy based on a consistent visible police presence in the form of sector police personnel will be difficult to sustain to the point where it succeeds in curbing crime.

The detective and investigative capacities of rural police stations needs to be enhanced. Proactive functions at these police stations should focus on enhancing information and intelligence gathering to support the detective functions and guide the operational deployment of station personnel and specialised units. This is crucial as too few farm attacks are prevented because the security forces rarely obtain advance warning of such attacks.

The police service in rural areas lacks the resources its personnel need to work effectively. Many police stations work with insufficient and old and inadequate equipment such as vehicles, radios and basic information technology equipment, and even handcuffs. More and better resources cost money which is in short supply. It is, however, possible to allocate existing resources in a more productive way. This could entail reallocating head office-based police officers to police stations in high crime areas, and placing more officers on duty over times when most crimes occur.

There is a limit to what the police service and the criminal justice system can do to reduce crime. The criminal justice system lacks the influence to deter many perpetrators from committing crimes. Perpetrators tend to be motivated by such feelings as anger, hatred, lust or jealousy (often in the context of alcohol and drug abuse). They are not in a rational frame of mind to weigh up the consequences of their actions. This is not to say, however, that the criminal justice system's role is unimportant. The system plays a crucial role in prosecuting repeat offenders and cracking down on organised crime syndicates. The criminal justice system can also play a vital role to reduce some of the facilitators of crime, such as drugs and firearms. The point has been made that much of the country's criminal gang and organised crime problem is linked to the ready availability of drugs – because drug addicts turn to crime of various kinds to finance their drug habits.

In South Africa there appears to be a disproportionately large number of young males who are prepared to use crime, often involving high levels of violence, to satisfy their material desires. Many also engage in wanton violence in a misguided attempt to bolster their masculinity, or to vent their anger and frustration at a society they feel has abandoned them.

Culture of violence theories argue that the effects of apartheid, coupled with years of political violence and the continued exposure to violence in the home and in the neighbourhood have produced a destructive culture. It means that South Africans quickly

resort to violence as a means of solving conflicts – whether in the domestic, social or work environment.

Crime prevention strategies can only be effective within institutional contexts that are strong enough to support them. This is because families, communities, schools, churches and work contexts discourage crime by creating commitments to conventional life patterns that would be endangered by crime. The role of informal social control becomes problematic when institutions like the family and community break down and are not able to exert the pressures necessary to uphold the law.

To change the widespread culture of violence in South Africa will take time. Crucially, it cannot be done by the criminal justice system alone. Peoples' beliefs and values are at their most mouldable during their childhood and early adolescent years. During this time young people generally have little contact with the police or criminal justice system. Their role models and those who have influence over them are their parents, siblings, extended family members, teachers, religious leaders, friends and other people in their age group with whom they mix on a regular basis. Such role models and age-group peers, and civil society organisations all exert informal social control, or pressures to conform to the law and socially acceptable behaviour. This places an onus on all law abiding South Africans to play their part in changing the destructive values and attitudes that have been internalised by a large portion of the population.

#### **14. COMPARATIVE STUDIES**

The allegation is often made that farm attacks are politically or racially inspired and that crimes stemming from them are more violent than other comparable crimes. The crimes mostly associated with farm attacks are robbery or housebreaking with intent to rob and robbery. The Committee has therefore compared farm attacks with cash-in-transit robberies, which are usually robbery with aggravating circumstances, and house robberies in urban areas, which are usually house breaking with intent to rob and robbery.

In 2001 there were 1398 victims of farm attacks, of whom 34.6% were injured and 10.5% killed. There were an estimated 1125 victims of cash-in-transit robberies, of whom 14.5% were injured and 3.5% killed. The chances of a victim being injured in a farm attack were therefore twice as great as for cash-in-transit robbery victims, and chances of being killed three times greater.

One obvious explanation for the greater violence of farm attacks may be that the attackers act with a different motive than simply robbery, e.g. political or racial. There are other less obvious explanations, however:

- Cash-in-transit robberies are better planned than farm attacks.
- Cash-in-transit robbers are better trained and more experienced than farm attackers.
- They act in large groups, who are able to overwhelm the victims.
- Their escape routes are easier and quicker than for farm attacks.
- Their victims are trained to handle crisis situations, unlike most farm attack victims.

The CIAC made a docket analysis of house robberies that occurred in the Eastern Cape during 2001. Unfortunately, murder and rape cases were excluded. The Committee analysed some 91 farm attacks in the Eastern Cape, dating mostly from 2000 and 2001, which were

similar to the house robberies, and compared them with 66 house robberies analysed by the CIAC. The CIAC itself then also made a comparative study between farm attacks and house robberies in Free State, Limpopo, Mpumalanga and North West.

To validate the comparison, only farm attacks were used where the circumstances were the same as for the house robberies. Furthermore, since the house robbery survey excluded cases of murder and rape, those were ignored in the farm attack sample as well. The results of the comparative study are as follows:

- Both farm attacks and house robberies were spread out fairly evenly throughout the year. Similarly they might take place any day of the week. However, more than half of the farm attacks took place during the day, whereas more than two thirds of the house robberies occurred in the evenings and during the night.
- In both farm attacks and house robberies the first place of contact between the perpetrators and the victims were inside the house, although this happened more often in the case of house robberies.
- In about 80% of both the farm attacks and the house robberies, the victims were surprised and overpowered by the attacker, either inside or outside the house. In the other cases the victims were approached on some pretext by the perpetrators.
- In less than half of both the farm attacks and the house robberies, the perpetrators found it necessary to break into the house. In the rest of the cases the perpetrators gained unobstructed entry, or were let in by the victims either under duress or freely. In some cases the perpetrators were prevented from entering the house.
- In the Eastern Cape, the farm attackers used firearms in about half of the cases, but in the other four provinces surveyed the farm attacker used firearms 95% of the time. Surprisingly enough, in the house robberies in the Eastern Cape as well as the other four provinces, firearms were also used in about 95% of the cases.
- Some 29.4% of the farm attack victims in the Eastern Cape suffered injuries, while in the other four provinces 19.4% of the victims were injured. Of the house robbery victims, 16% were injured in the Eastern Cape and 11.5% in the other four provinces. It would therefore seem that farm attack victims had a considerably greater chance of being injured than house robbery victims.
- Of the farm attack victims, 32.2% were tied up by the attackers in the Eastern Cape, and 25.8% in the other four provinces. This was considerably more than in the case of house robberies, where 3.8% were tied up in the Eastern Cape and 8.3% in the other four provinces.
- The items stolen in farm attacks and house robberies varied considerably. Many more firearms and vehicles were robbed during the farm attacks than in the house robberies. On the other hand, money was much more often taken during the house robberies.
- In the Eastern Cape 70% of the farm attack victims were white, and in the other four provinces 52%. In the house robberies, only 5% of the victims in the Eastern Cape were white and only 13% in the other four provinces. Of the 100 white victims of farm attacks in the Eastern Cape, however, 42% were injured, whereas of the 43 black or coloured victims, only one (2.3%) was injured. Therefore, at least in the Eastern Cape, a white victim of a farm attack was far more likely to be injured than a black or coloured victim. About one third of both groups were tied up, however.

- Considerably more than half of all the house robbery victims were under the age of 40 years. Compared to this, considerably more than half of the farm attack victims were over the age of 40, especially in the Eastern Cape.
- In both farm attacks and house robberies, there were, on average, between two and three attackers involved in each incident.
- The personal particulars of the farm attackers in the Eastern Cape are not known. In the other four provinces they were 96.5% black, 2% white and 1.5% coloured. In the house robberies in the other four provinces, 99% of the perpetrators were black. Only 1% of the perpetrators were female.
- In both farm attacks and house robberies most of the perpetrators were between 20 and 39 years of age. Surprisingly, a much bigger proportion of house robbers were 19 or younger than was the case for farm attacks. This may indicate the involvement of young gangsters.
- Of the farm attacks, 42.9% of the cases in the Eastern Cape resulted in a successful prosecution, but in the other four provinces this was only 17.3%. However, for the house robberies there were successful prosecutions in only 6.1% of the cases in the Eastern Cape and 7.1% in the other four provinces. Although the figures are all low, it can be said that farm attack cases are far more likely to end up in court, with a good conviction rate.

## 15 LEGISLATION ON LAND AND LAND REFORM

In the course of research it became obvious that the question of the Government's land policy was of central importance to farmers, both in terms of the way in which specific aspects of it impact on farming activities, and the perception that farm attacks were part of a campaign to drive farmers off their land – a perception reinforced by illegal invasions.

Three main principles have shaped this policy: (1) redistribution to provide disadvantaged and poor people with land; (2) restitution of rights in land lost through forced removals linked to homeland consolidation; and (3) land tenure reform to improve security of tenure of vulnerable people and communities. The main goal of the policy is to redress past racial imbalances in land ownership and occupation, in line with the principles of South Africa's constitution, and to this end four pieces of legislation are of particular importance.

The Restitution of Land Rights Act, Act No22 of 1994, as amended, governs procedures to be followed by persons dispossessed in terms of racially based law in applying for land restitution. It provides for the establishment of a Commission on the Restitution of Land Rights and a Land Claims court, and the functions of, and procedures to be followed by, these bodies. While the Act stipulates that claimants may not be evicted from land already occupied without the permission of the Chief Land Claims Commissioner, it also forbids any occupation of land without the permission of the owner or lawful occupier. Amendments to the original act (Section 42A,B,C,D) give powers to the Minister to award land and/or pay compensation to claimants.

The Land Reform (Labour Tenants) Act, Act No 3 of 1996, aims to provide security of tenure for labour tenants on farms and those associated with them (including retrospectively) and assist them to acquire rights in land. The Act specifies the obligations

which those included under its provisions have towards the owner or lessee of the land, and the circumstances under which their rights can be terminated. Evictions are prohibited unless carried out in terms of a court order, and the conditions under which such evictions should take place are given. The type of claims which tenants may make, and the procedures to be followed, are spelled out in detail.

The Extension of Security of Tenure Act No 62 of 1997, known as ESTA, is intended to ensure that no evictions, including from farms, are carried out without a court order. It attempts to strike a balance between the rights of land owners and tenants/occupiers, and to regulate the conditions under which the latter may be evicted. Among the important matters with which this Act deals are whether or not occupants reside on land with the consent of the owner or person in charge, the conditions under which subsidies may be given for development purposes, the rights and duties of tenants/occupiers, and the conditions governing termination of their rights of residence and eviction. In terms of this Act, magistrates' courts are given certain powers (e.g. to order eviction or reinstatement orders), and a party to a dispute may also opt for mediation.

The fourth piece of legislation, the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, No 19 of 1998, repeals the Illegal Squatting Act of 1951 and certain other legislation, and prohibits unlawful evictions while, at the same time, providing for procedures for the eviction of people who occupy land unlawfully. The procedures and principles guiding the eviction of unlawful occupiers are laid down in the Act, which also makes it clear that it is illegal for any person to receive or solicit payment for organising land occupation without the consent of the owner or person in charge of the land.

While providing a framework for claiming restitution of land rights lost in the past, and preventing further erosion of such rights, these four pieces of legislation also attempt to protect the rights of property owners and ensure that the behaviour of different parties is lawful. It is clear that the courts continue to play a pivotal role in disputes of all kinds around land, including if there is a lack of consensus or disagreement on any land-related issues. Principles of 'Just administrative action' are also enshrined in the South African constitution. Furthermore, a definitive interpretation of the above legislation has now been given by the High Court in its judgement of *Modderklip Boerdery (Ems) Bpk vs Die President van die Republiek van Suid-Afrika*, which sets out the Government's responsibility in preventing the illegal occupation of land, on the one hand, and in providing suitable residential land to the homeless, on the other.

While there was a slight shift in land-related policy after the 1999 elections, the commitment to address past imbalances in an equitable and sustainable – i.e. development-oriented – manner has remained. Progress in implementing the land reform programme has, however, been painfully slow and extremely costly. Periodic calls have been made for the Government to expropriate land it could not afford to buy. During the past two years this slow pace of land reform delivery has been used as an excuse to threaten illegal invasions in different parts of the country – a process which, as this report documents elsewhere, is already underway.

## 16 SECURITY ON FARMS AND SMALLHOLDINGS

The case studies undertaken by the Committee showed that a large proportion of farms and smallholdings attacked had no security measures at all, and even where there were good security systems installed they were out of order or not being utilised. This phenomenon has also been observed in other studies.

Chief Joint Operations of the SANDF conducted surveys of 810 farm attacks in 1999. In 56% of the cases the security measures had not met the required standards, while in another 20% the existing security measures had not been utilised. In 53.2% of the cases there had been no burglar bars, in 55.7% no security doors, in 50.7% no proper fencing, and in 47.8% no dogs. The survey was repeated in 2000, with virtually the same results.

The CIAC in the Eastern Cape conducted a study of 1614 farms during 2001. There were no signs warning trespassers to keep out in 83.0% of the farms, no proper fencing around the homestead in 45.5%, no proper fencing at the workers' houses in 79.5%, no locked gates in 72.8%, no or ineffective dogs in 55.1%, no or unlocked security doors in 41.2%, no proper burglar proofing in 60.8%, no proper external lighting in 29.7%, and no monitored alarm system in 70.0% of the farms.

There may be several reasons for this state of affairs.

- Traditionally farms are regarded as safe havens. However, it seems that a white farmer has a greater risk of being murdered than his counterpart in a small town or village.
- Some security measures are expensive. However, some security systems are relatively cheap.
- Some farmers say security systems only create the impression that there are valuables on the property. However, if that is so then all security may as well be discarded with.
- Many farmers think that their firearms provide enough security. However, the many farm attacks prove this attitude to be wrong.
- Some argue that no security system is impenetrable. However, the criminal is likely to follow the road of least resistance. If a farm is well protected, he will go to the next.

Property can be safeguarded in various ways:

- There should be fences and signs warning against trespassing on the farm or smallholding. From a criminological point of view, they are very important.
- Farm roads and gates where ambushes may take place should be made safe, e.g. by clearing the bush or putting in a cattle grid.
- There should be a security fence around the homestead, and the gate should be kept locked.
- A good watch dog is most important, especially if it is properly trained.
- There should be security lights on the outside of the building and in the yard.

- All the windows should have burglar proofing, and not only the opening windows.
- There should be a security gate at the door, so that the occupants are not surprised.
- A proper alarm system is essential. It should preferably be a monitored system, so that assistance can be called for.

Personal protection should also be considered:

- Potential victims can be trained in self-defence techniques.
- It is essential that, if reliance is placed on firearms, the users thereof should be properly trained. The legal aspects of shooting somebody should also be considered.
- Alertness is absolutely free, but of all safety measures probably the most important.
- Special attention should be given to arriving and leaving the farm.
- The farm residents should also cultivate safety habits, e.g. watching out for strangers and exercising care when answering a knock at the door.
- Mental preparedness is a very important aspect of personal safety, and it is something for which potential victims can be trained. There is no doubt that the inability of victims to handle farm attacks correctly, is one of the major reasons for the high injury and fatality figures.

Where certain factors are present, the risk of a farm attack increases dramatically:

- Elderly people are more vulnerable. They are frail and not as alert as they should be.
- Solitary residents are favourite targets of farm attackers.
- A stall or shop on the farm or smallholding is likely to attract robbers.
- Large amounts of money and valuables should not be kept on the farm.
- Once a farm is attacked, it may happen again, especially if the attack was successful.
- Proximity to major roads, railway lines and areas known for its criminals is a danger sign.
- Lack of some communication system other than a land telephone line, is dangerous.
- 'Battle indicators' and other signs that the farm is being observed by would-be attackers, should be taken seriously.
- Bad relationships with farm workers and other residents on the farm are dangerous.

No farmer can introduce all the suggested security measures. It would both be too expensive and make daily life intolerable. Some measures are relatively cheap or may cost nothing at all, however, and farmers should do what is affordable and reasonable under the circumstances.

## **17 TRAUMA AND ITS TREATMENT**

The financial impact of farm attacks on the farming community is tremendous. According to surveys conducted by Agri SA, where a farmer is killed it will take 18 months on

average for the farm to become productive again. The livelihood of many people – the farmer, the farm workers and their families – is affected by such an attack.

Yet the impact of farm attacks on the psyches of the victims can be equally catastrophic. In the chapter on ‘The victims of farm attacks’ the traumatic impact of farm attacks on victims is illustrated by way of actual case studies.

Trauma is not a new phenomenon, but is as old as human kind. There are numerous accounts of trauma and its effects in many early historical writing. However, emotional trauma as a concept has only been properly identified over the last approximately 20 years. Prior to that, what we know today as emotional trauma was referred to as hysteria, nervous shock, the great neurosis or war neurosis and even as late as the Vietnam war, the effects of traumatization was still considered to be signs of weakness and even malingering.

The word ‘trauma’ is derived from the Greek term meaning ‘wound’. This meaning provides a graphic image of what takes place in human trauma. When a person encounters a traumatic experience, he or she becomes a wounded individual, and as with all wounds there must be a time of healing.

A person is traumatized when exposed to a traumatic event which involved actual or threatened death or injury, or a threat to the physical integrity of himself or another person, and the person’s response is one of helplessness or horror. There is therefore a sense of loss and an irreversible change of circumstances, such as the loss of a loved one, and at the same time the person experiences a severe impairment of his normal coping abilities. A farm attack may be a typical traumatic event.

Very often people have dramatic reactions to extraordinary, traumatic events, that may leave them feeling overwhelmed and upset. The symptoms and feelings that such a person experiences, are normal reactions to abnormal situations. However, the availability of early trauma intervention may determine whether the majority of survivors will recover emotionally within a reasonable time or be plagued by delayed symptoms for a long time in the future.

It has become imperative for the South African farming community (and indeed the community in general) to create the necessary infrastructure to deal with the trauma, and for the citizens to utilise these resources effectively. Furthermore, the problem of traumatic stress caused by farm attacks has to be tackled not only on a reactive level, by the establishment of trauma centres with properly trained counsellors, but also proactively, through workshops for farmers, farm workers and their families.

## **18 CONCLUSIONS AND RECOMMENDATIONS**

The literature and submissions considered by the Committee offer a number of likely explanations for farm attacks, often using the terms motives or causes. Motives refer to the psychological driving forces behind human behaviour, while causes take into account the broader sociological dynamics. From a criminological point of view explanations for farm attacks can be grouped into four broad categories:

- Attacks are motivated by criminal intent such as robbery, sometimes leaving in its wake crimes such as murder and rape. Most of the reports by the security agencies, and several other studies, conclude that the overwhelming majority of attacks are criminally motivated
- Attacks are politically motivated, specifically in relation to land issues, and aimed at driving (white) farmers off the land. This explanation is favoured by Action Stop Farm Attacks, the TAU and some political organisations. The post-1994 rhetoric of certain politicians is seen as supporting this explanation of why white farmers are attacked
- Farm attacks are related to labour disputes and grudges. In this sense, farmers are perceived as exploiting and ill-treating their labour. Excerpts of interviews cited in the Human Rights Watch report are used to support this theory. This view has been expressed by trade unionists and certain political parties
- Farm attacks are caused by a variety of factors, including those referred to above, but also by other factors such as racism, the failure of the criminal justice system, the culture of violence, and socio-economic conditions. Professor Moolman points out that the dynamics of farm violence are extremely complicated.

The debate about farm attacks is essentially about two issues - whether the overwhelming majority of farm attacks are merely motivated by criminal intent or whether they are politically orchestrated. Other related issues also received much attention. The major topics considered by the Committee are the following:

#### *The number of farm attacks*

Farm attacks increased between 1991 and 2001, but seem to have stabilized during 2002, and may even be decreasing at this stage. The murder rate decreased between 1998 and 2001, and dropped considerably in 2002.

Although the situation has improved considerably; accurate reporting of farm attacks is still a problem. Attention should be given to this matter, especially at ground and intermediate level. The Committee is of the view that attacks on smallholdings should still remain in the definition of farm attacks. However, the distinction between farms and smallholdings should be maintained so that suitable comparisons can be made.

#### *The motives for farm attacks*

The Committee thoroughly investigated the motives for farm attacks, and especially whether there was an underlying political or racial motive. By far the greater majority of cases are motivated by a desire to rob or steal. Very few cases have political overtones.

Farm attacks generally are also not carried out with 'military precision', and there is no indication of an organisation behind farm attacks in the narrow sense of the word, with the exception of certain incidents connected with land invasions.

#### *Land invasions*

Land invasions often go hand in hand with incidents of intimidation and arson, and they often lead to farm attacks in the narrow sense of the word. In some cases of land invasions there is evidence of a degree of organization, especially by traditional leaders KwaZulu-

Natal. There are indications that these invasions are likely to increase and the matter is of great concern to the Committee.

The Committee has been given examples of unprofessional and even unconstitutional actions by officers of the Land Claims Commission, which behaviour has impacted very negatively on farmers. The Committee has also been given examples of the SAPS refusing to assist farmers in implementing the law.

The Committee recommends that the Ministry of Agriculture and Land Affairs, and that the SAPS gives urgent attention to ensuring that laws are implemented and the constitutional rights of land owners are protected. The SAPS must ensure that police at the local station level fulfil their legal duties in this regard when called upon to do so.

The process of land restitution should also be speeded up in line with existing legislation.

#### *The degree of violence involved in farm attacks*

Many farm attacks are extremely violent and the high publicity given to these cases give rise to the perception that all farm attacks are of that nature. They are not typical of the majority of farm attacks, however. The Committee found it difficult to establish a suitable basis for comparing the degree of violence with that of other comparable crimes. Since the majority of farm attacks are robberies, comparisons were made between these attacks and cash-in-transit robberies. It was found that victims of farm attacks ran a far greater risk of being killed than victims of cash-in-transit robberies. Similarly a comparison of house robberies on farms and house robberies in urban areas suggest that there was a greater likelihood of victims on farms being injured than the victims of urban areas.

There is thus some support for the notion that farm attacks are more violent than other robberies but there was insufficient statistical data for proper analysis and further research by the CIAC is recommended.

#### *The role of race*

Just over 60% of the victims of farm attacks during 2001 were white, but it seems as if the proportion of black victims is increasing. However, it seems that there is a considerably higher risk of a white victim of farm attacks being killed or injured than a black victim. On the other hand, except for individual cases, the Committee could find no general underlying racial motive for this discrepancy, and there may be a variety of factors which could account for it.

#### *The criminal justice system*

The investigation of farm attacks is given high priority, and the conviction rate for farm attack cases is higher than for other similar crimes. This seems linked to investigations being handled by specialised units. There were generally high levels of dissatisfaction among farmers with the service delivery at local police stations. It is also clear that there is a lack of resources in terms of police personnel and vehicles in rural areas.

The Committee supports the replacement of the Commandos with Area Crime Combating units and Sector Policing, provided that the transition is handled correctly. Hopefully these

initiatives will overcome many of the problems which are being experienced in rural areas. The Committee recommends optimum use of available police resources and the enhancement of detective capacities in rural areas. It is important to involve all rural residents in structures such as Community Police Forums and the Rural Safety Plan.

*Security on farms and smallholdings*

There are a variety of reasons for criminals choosing to target farmers. Yet there is little doubt that security on many farms is inadequate or non-existent, lacking even basic security measures such as burglarproofing and guard dogs. There is also a general lack of alertness. The Committee's research suggests that it could be of benefit for potential victims to receive training on how to react during an attack.

It is essential that security companies operating in farming communities should be registered with the regulatory authority and conduct themselves to the benefit of the whole community. Farm attacks may strain relationships between farmers and workers and ways should be found of rebuilding this trust of affected rural communities.

*The trauma caused by farm attacks*

Trauma has serious consequences for the victims of farm attacks and has not been given sufficient attention. The Committee recommends the creation of infrastructure in rural areas to deal with trauma.

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Boshoff Lt Col B. (South African National Defence Force): 2001-06-19

Burger Ass Com F.J. (South African Police Service): 2001-10-17

Crosby A. (Agri South Africa): 2002-07-10

De Kock Ass Com C. (South African Police Service): 2001-05-15

Dissel A. (Centre for the Study of violence and Reconciliation) 2001-09-03

Dunn P.P. (Mangete Landowners Association): 2001-08-20

Ferreira K. (Agri South Africa): 2001-07-04

Geldenhuis K. (Security consultant): 2002-05-03

Graf Insp C.H. (South African Police Service): 2001-05-15

Jordaan Dr. C.L. (Geo-strategist): 2001-07-23

Klaasen Dr K. (National Intelligence Agency): 2001-09-26

Lesabana R. (Lawyers for Human Rights): 2001-06-19

Loggenberg J. (Transvaal Agricultural Union of South Africa): 2001-06-20, 2002-07-09

Martin D.

Moll Maj L. (South African National Defence Force): 2002-01-09

Moore Lt Col D.C. (South African National Defence Force): 2001-06-19

Mothabele M. (National African Farmers' Union): 2001-07-23

Niemann Col B. (Transvaal Agricultural Union of S A): 2001-06-20, 2002-06-06

Pereira B. (Human Rights Commission): 2001-06-19

Pretorius Supt.D. (South African Police Service): 2001-09-26

Ramphela R. (Human Rights Commission): 2001-06-19

Schoeman Col. B. (South African National Defence Force): 2001-06-19

Steinberg J. (Independent researcher): 2001-06-19

Strauss Supt. J.C. (South African Police Service) 2001-08-20, 2001-11-07

Van Zyl B. (National Intelligence Agency): 2001-09-26

Van Wyk H.C. (Rand Afrikaans University): 2001-07-24

Visser J. (Agri South Africa): 2001-07-04, 2002-07-10

Vreugdenburg Supt J.H. (South African Police Service): 2001-09-27

Weber W. (Action: Stop Farm Attacks): 2001-08-21  
 Wegerif M. (National Land Committee): 2001-06-19  
 Yates T. (Department of Land Affairs): 2001-09-26  
 Zulu Prof P. (University of Natal): 2002-02-06

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 Joint Operations *Farm attacks: Presentation to the Farm Attacks Investigating Commission.* (Undated)  
 Koen M. *Conflict in the Kranskop area* (2002-10-03)  
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 'Louise' *Untitled Email.* (4 October 2001)  
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Sanna C. O. *His name is Claudio* (10 October 2001)

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