

COMMISSION OF INQUIRY REGARDING THE
PREVENTION OF PUBLIC VIOLENCE AND INTIMIDATION
ESTABLISHED IN TERMS OF ACT NO. 139 OF 1991

REPORT OF THE SECOND COMMITTEE APPOINTED TO
INQUIRE INTO THE VIOLENCE AT THE PRESIDENT STEYN
GOLD MINE IN WELKOM

JE050392

REPORT OF THE COMMITTEE OF INQUIRY INTO THE VIOLENCE DURING NOVEMBER 1991 AT THE PRESIDENT STEYN GOLD MINE, WELKOM

1. MEMBERS OF THE COMMITTEE

MR G STEYN - CHAIRMAN

ADV D A BREGMAN, SC

MR R M M ZONDO

2. APPOINTMENT OF THE COMMITTEE

The Committee was appointed to investigate the violence at the President Steyn Gold Mine during the period 3 to 25 November 1991, which left 86 dead and 403 injured.

3. TERMS OF REFERENCE

The terms of reference of the inquiry drafted in consultation with the National Union of Mineworkers (NUM), Free State Consolidated Gold Mining (Operation) Limited (Freegold), and the South African Police (SAP) were:

3.1 To inquire into the cause or causes of the violence which erupted at the President Steyn Gold Mine, Welkom, on and after 3 November 1991.

3.2 Without derogating from the generality of paragraph 3.1, to inquire in particular into -

- 3.2.1 the relevance to the violence of the hostel system;
- 3.2.2 the relevance to the violence of the national stay-away called by COSATU, NACTU and other organizations on 4 and 5 November 1991;
- 3.2.3 the reason or reasons for the continuance and escalation of the violence after 3 November 1991;
- 3.2.4 the identification and determination of the influence, if any, of political and other organizations, both South African and foreign, relevant to the violence;
- 3.2.5 the relevance to the violence of the reaction of Freegold to the stay-away and its communications thereof to its employees and of the reaction thereto of NUM and its communication with its members employed at the mine.

4. COMMITTEE SESSIONS

4.1 All sessions were held at the Auditorium, Traffic Department, Welkom.

4.2 Evidence was heard from 9 to 12 December 1991 and 9 to 31 January 1992.

4.3 Arguments were heard in 19 February 1992.

5. REPRESENTATION OF INTERESTED PARTIES

5.1 The parties were represented as follows:

5.1.1 NUM: Adv I A M Semanya, instructed by Ms N Tshabalala of Cheadle, Thompson & Haysom, Johannesburg.

5.1.2 Freegold: Adv C D A Loxton assisted by Adv D M P S Daly, instructed by Mr C van Staden and Mr D Heywood of Deneys Reitz, Johannesburg.

5.1.3 SAP: Adv W H Olivier, instructed by the State Attorney, Bloemfontein.

5.2 In addition members of interested parties were present at various sessions.

6. PARTICULARS OF THE MINE

6.1 Freegold consists of six mines which are divided into north and south regions. The south region consists of the President Brand, President Steyn (Steyn) and Free State Saaiplaas (Saaiplaas) mines.

6.2 The mine manager at Steyn is Mr R L de G Solms.

6.3 The Black labour force at Steyn is approximately 15,000 of which NUM has some 72,9 % membership.

6.4 Each of the two shafts at Steyn where violence occurred, namely No 2 and No 4 shafts, has its own hostel complex.

6.4.1 No 2 shaft hostel houses 2 600 Xhosa, 2 900 Sotho and 700 other workers;

6.4.2 No 4 shaft hostel houses 2 600 Xhosa, 2 300 Sotho and 600 other workers.

7. THE NATIONAL UNION OF MINEWORKERS (NUM)

7.1 NUM is the largest affiliate of the Congress of South African Trade Unions (COSATU).

7.2 A good relationship existed and still exists between NUM and management at Steyn. Structures and procedures are mutually recognized.

7.3 The evidence was that numbers of Sotho workers terminated their membership of NUM, allegedly owing to increased membership fees which they were reluctant to pay and their feeling of alienation from certain political activities of NUM.

8. THE VALUE ADDED TAX (VAT) STAY-AWAY OF 4 AND 5 NOVEMBER 1991

On 27 to 29 September 1991, at a Central Committee meeting of COSATU, a resolution was adopted to recommend that a stay-away be called to protest against the introduction of VAT throughout the Republic of South Africa. The call by COSATU was that 4 and 5 November 1991 should be observed as non-working days to demonstrate the rejection of what was described as "taxation without representation."

9. EVENTS LEADING UP TO THE VIOLENCE

9.1 When the question of the stay-away was raised prior to 3 November 1991, management at Steyn informed NUM officials that it was not in favour of a stay-away. Management tried to negotiate alternative methods of protest (such as taking leave) with NUM officials. NUM officials indicated that they were unable to negotiate alternatives because the stay-away was a COSATU issue, and NUM had no jurisdiction to discuss the matter.

9.2 The NUM standpoint was that workers who wanted to work would be free to do so and that there would be no intimidation. Management indicated to NUM that those workers who participated in the stay-away would receive no pay and would face disciplinary action. Despite urgent appeals by NUM, management refused to alter this standpoint. Management requested NUM officials to convey its standpoint to the workers.

9.3 NUM was granted permission to hold mass meetings at No. 2 and No. 4 shafts. The purpose was to discuss the proposed stay-away and to inform workers of management's stand. Solms, during a meeting on 31 October 1991, told NUM that a management brief (management's channel of direct communication with workers) setting out management's attitude to the stay-away was in the process of being printed.

9.4 Because of the different reactions to the brief we quote it in full.

"R L DE G SOLMS
MANAGER

PROPOSED STAY-AWAY: 4 & 5 NOVEMBER 1991

It has come to the Management's attention that COSATU has urged workers to stay away from work on 4 & 5 November 1991, in protest against the introduction of V.A.T (Value Added Tax).

Management urges workers not to jeopardize their jobs by joining what will be an illegal strike.

The principle of NO-WORK, NO-PAY AND NORMAL DISCIPLINARY ACTION will apply.

Stopping the mine's production for two (2) days will hurt Management and workers, but will have no affect on the introduction of V.A.T."

9.5 The brief was distributed in the different languages and also broadcast in the hostel over the public address system.

9.6 NUM's view was that management had no right to issue the brief before workers had an opportunity to discuss it at the mass meeting on 1 November 1991. It interpreted the brief as a threat to the workers. The Sotho workers' reaction to the brief, in so far as the evidence showed, was that many of them were not prepared to act contrary to management's instructions. Various Sotho witnesses therefore felt that management had a duty to protect those who wanted to work, and later expressed dissatisfaction that management had failed to do so.

9.7 Solm's evidence was that at the meeting on 31 October 1991, during which he informed NUM officials (including shaft stewards at No. 4 shaft hostel) of the details of the brief, he also requested them to be available on the night of Sunday, 3 November and the morning of Monday, 4 November 1991 to deal with any problems that might arise out of intimidation and the like.

9.8 Authorized mass meetings were held at both the No. 2 and No. 4 shaft hostels. Management's view were conveyed. The meetings were in favour of the stay-away but it was indicated that hose who wished to work were free to do so and that no intimidation was to take place. However, from the mood of the meeting it must have

been clear to those who intended to ignore the stay-away call that going to work might evoke anger and possible reaction.

10. CHRONOLOGY OF THE EVENTS

10.1 The evidence of 38 witnesses was presented and the sequence of events established with sufficient certainty.

10.2 During the afternoon of 3 November 1991, NUM members from No. 4 hostel attended a rally in Thabong, the Black residential township of Welkom. On returning to the hostel they dispersed. Workers did however meet thereafter and discussed the VAT stay-away issue at various places in the hostel.

10.3 It was mine security's practice at that time, as a matter of policy agreed to with NUM to maintain a low presence in the hostel. Discipline in and access to the hostels are in the hands of hostel prefects elected by the hostel residents. Because of the impending stay-away, mine security was on standby from 18:00 on Sunday, 3 November 1991.

10.4 During the day there were reports of groups of workers toyi-toying near the tunnel entrance, but information was that this was peaceful. The tunnel consists of a corrugated iron structure that leads from the hostel grounds to the shaft.

10.5 However, at about 20:00 an incident occurred near the tunnel entrance between a group of Sotho workers apparently bound for

work and elements of the toyi-toying group. The Sotho were chased to their room.

10.6 Mr Bennotto, chief of the mine security, was immediately advised by officials at No. 4 shaft that intimidation was taking place. He went to No. 4 shaft hostel where he, with Mr Wilkens, the assistant manager, proceeded to the tunnel entrance. They arrived at approximately 20:15 when the night shift had already started assembling.

10.7 Mr Mntumni, the NUM No. 4 shaft hostel chairman, had previously at the meeting of 31 October 1991 been requested by management to be available on 3 and 4 November 1991. However, he could not be contacted from early afternoon of 3 November 1991. However, while halfway down the tunnel, Bennetto and Wilkens observed Mntumni. He was requested to accompany them, which he did, albeit reluctantly. There were various other workers in the tunnel and Bennetto noticed about 12 to 15 persons standing close to the "magou" outlet at the tunnel entrance. Across the road from the tunnel a group of 150 to 200 were milling around. They were not dressed for work. Wilkens asked Mntumni to request this group to disperse as there had been reports that they were intimidating those who wanted to report for work.

10.8 Mntumni asked for a loud hailer. However, before their could react, a group of about 50 blanket-clad Sotho workers were observed approaching the tunnel entrance carrying two bodies. It later transpired that the two were dead workers - one Sotho and one Shangaan. These were the first casualties of the fighting

that commenced at the tunnel entrance and continued in the hostel.

10.9 In the commotion Mntumni disappeared.

10.10 The workers carrying the bodies were aggressive and were armed. They told Bennetto and Wilkens to leave the scene. There was however no aggression towards them. The group continued towards the medical station that leads off halfway down the tunnel, rattling stick against the corrugated iron sides of the tunnel.

10.11 Bennetto and Wilkens followed through the medical station to the administration block. Bennetto noticed that the NUM office just outside the hostel gate had been set alight.

10.12 Reinforcement from mine security were called for, and the SAP were summoned.

10.13 Bennetto stood in the parking area and saw a group of some 50 Sotho workers moving from inside the hostel grounds towards the gate. They attacked a person and savagely murdered him. This happened quickly and in a situation where intervention was impossible. This person was later identified as Mr Butizi Jose (James), a Xhosa worker. Evidence by certain Sotho workers implicated him as a prominent member of the toyi-toyi group and as an intimidator.

10.14 Mine security reinforcements and the SAP arrived. However, workers continued fighting in the hostel grounds.

10.15 Approximately 2 000 Sotho workers, with weapons openly displayed, formed themselves in the middle-ground of the hostel. The Xhosa were predominantly gathered within the confines of C Block, on the opposite side of a road. Mine security managed to position its vehicles between the fighting groups and intervened where possible. Several bodies were noticed lying on the ground. The fighting groups were eventually separated. Rubber bullets had to be used.

10.16 During the night the Sotho tried time and time again to break through the security line to attack the Xhosa. On occasion they broke through. No aggression was demonstrated towards mine security or the SAP.

10.17 Further incidents of violence occurred throughout the night.

10.18 The evidence was that during the night of 3 to 4 November 1991, 55 workers were injured (30 Xhosa, 13 Sotho, 1 Tswana, 5 Shangaan, 1 Zulu, 1 Ndebele, 1 Pondo, 1 Hlubi and 2 Swazi) and 15 workers were killed (9 Xhosa, 3 Sotho, 1 Shangaan and 2 Pondo). The Shangaan was not employed at the mine, but no inference can be drawn from his presence at the hostel.

10.19 Because of the disturbances that night, the night shift did not go down.

10.20 During 4 November 1991, after the fighting had stopped, negotiations between management and Sotho, Xhosa and NUM delegates took place. Weapons were found, surrendered voluntarily, confiscated and then destroyed. No further violence occurred until the night of Friday, 8 November 1991.

10.21 At 22:03 on Friday night, 8 November 1991, Bennetto received reports that Sotho and Xhosa at No. 4 shaft hostel were grouping into formations with obvious aggressive intent. The Xhosa again assembled outside Block C with the Sotho opposite in an open area. Mine security again took up position between them. Fighting broke out and mine security intervened and had to fire rubber bullets at the Sotho. The SAP were called and arrived promptly. A Sotho worker informed mine security that Sotho were being killed in B Block. A number were later found in B Block. They had been savagely killed, having been beaten, stabbed, their throats cut and their heads smashed to pulp. There was no stay-away issue involved at this stage. All the indications point to the violence on 8 November 1991 being grudge killings following the earlier killings of 3 and 4 November 1991. The victims at B Block had each been attacked and killed by a number of people. The majority of workers killed that Friday night were Sotho. The hostel was again searched the next morning, Saturday, 9 November 1991, and many weapons were removed.

10.22 Saturday night passed uneventfully. Sunday, 10 November 1991, was quiet until 17:30 when a shot was heard. The moment this happened, Xhosa and Sotho quickly formed opposing groups and attacked each other. The groups were separated and many workers were paid and sent home to cool off.

10.23 The fighting at No. 4 shaft hostel from 8 to 11 November 1991 left 263 workers injured (77 Xhosa, 142 Sotho, 3 Tswana, 4 Shangaan, 8 Zulu, 1 Ndebele, 19 Pondo and 9 Swazi) and 25 workers killed (6 Xhosa, 1 Pondo, 1 Hlubi, 1 Shangaan, 15 Sotho and 1 other). This last other person was a former Steyn employee, Stephen Nkhopea, who was allegedly a leader of the Russians, a group referred to below in paragraph 11.3.

10.24 There had been no intimidation at Steyn No. 2 shaft hostel during 3 and 4 November 1991. This could have been because the NUM shaft foreman, Mr Makhata, a Sotho, and other members of the No. 2 shaft hostel committee prevented intimidation by patrolling the grounds.

10.25 On 10 November 1991 administrative staff at No. 4 shaft hostel heard a rumour that Makhata was in danger from Sotho workers at No. 2 shaft hostel who had accused him of collaboration with the Xhosa. This resulted in him being warned and leaving the No. 2 shaft hostel at 19:25. Soon thereafter violence erupted at No. 2 shaft hostel.

10.26 At about 19:50 there was a disturbance near the main kitchen at C Block No. 2 shaft hostel. This violence was sparked by

some undetermined incident in the kitchen. Workers armed themselves and started fighting. Mine security was called and had to fire shots to disperse the fighting workers, who had formed themselves into Xhosa and Sotho groups.

10.27 The fighting was stopped and negotiation were commenced to settle the matter. However, many Xhosa left the No. 2 shaft hostel.

10.28 This fighting at No. 2 shaft hostel resulted in 59 workers being injured (31 Xhosa, 9 Sotho, 3 Baca, 2 Shangaan, 5 Zulu, 4 Pondo and 5 Swazi) and 38 killed (25 Xhosa, 6 Sotho, 2 Pondo, 3 Zulu, 1 Baca and 1 unidentified).

10.29 The period from 12 to 23 November 1991 was quiet.

10.30 Two taxi drivers gave evidence that during the evening of 24 November 1991 their kombis were boarded in Thabong by a group of blanket-clad Sotho, referred to as "Russians". They were directed to take the group along certain backroads towards Steyn No. 4 shaft. The taxi drivers were then ordered to stop and unload the passengers out of sight of a roadblock near the hostel. The drivers were ordered to wait and the Sotho group disappeared amongst the trees behind the dump. The drivers however left as they were afraid. One taxi driver stated that they had passed a Steyn security vehicle with a White man next to the vehicle and two members of mine security on the back. He testified that the White person waved them on towards the mine. The implication was that mine security was involved in this clandestine operation.

The other taxi driver's evidence however contradicted this evidence. Mine security involvement is therefor unsubstantiated.

10.31 At 01:30 on Monday, 25 November 1991, mine security was telephoned by a hostel attendant from Steyn No. 4 hostel. He reported people arriving at the office seeking refuge and injured people were observed. Bennetto immediately went to Steyn No. 4 hostel and called for mine security reinforcements.

10.32 The bodies of 8 Xhosa workers were found near the rooms. This episode was clearly a planned assassination, and unlike in the previous fights the Xhosa and Sotho workers had not separated into groups. The Russians had entered the hostel by stealth and killed 8 Xhosa workers and injured 26 workers (20 Xhosa, 1 Sotho (probably in error), 3 Pondo, 1 Shangaan and 1 Zulu). This incident was apparently organized as an act of revenge for the large number of Sotho killed during the period 8 to 11 November 1991.

10.33 Immediately hereafter the Xhosa workers at No. 4 shaft hostel, at the initiative of management, were moved to Saaiplaas No. 5 hostel, where they remained.

10.34 In order to normalize the situation at No. 4 shaft hostel, and also at the initiative of management, a peace committee was formed at No. 4 shaft hostel consisting of representatives of all interested parties and the SAP. All indications are that the peace committee is functioning satisfactorily and its first task is to allow for a peaceful return of the Xhosa accommodated at Saaiplaas No. 5 hostel.

11. FINDINGS

11.1 Cause of the Violence - 3 to 4 November 1991

11.1.1 The COSATU stay-away call was approved by the vast majority of the No. 4 shaft hostel workers. The NUM standpoint was to support the stay-away but permit those who wanted to work, to do so.

11.1.2 A militant element consisting of certain NUM members was determined to ensure as complete a stay-away as possible and took matters into its own hands. This element was not under the discipline or control of NUM at the time. However, the NUM shaft stewards at No. 4 shaft hostel, and in particular Mntumni, the chairman, should have been aware of the dangerous situation that was being created by certain of NUM's militant supporters. Mntumni's attempts to play down his role in the lack of discipline and control were unsatisfactory.

11.1.3 Certain Sotho workers were determined to go to work. They were motivated not only by a desire to lose earnings but were dissatisfied with that they perceived as NUM's involvement in what they regarded as a political issue that did not concern the worker/management relationship.

11.1.4 This group decided on a "trial run" and proceeded towards the tunnel entrance near where the opposition element was gathered.

11.1.5 On the evidence we find that the Sotho were forcibly prevented from entering the tunnel and chased back to their rooms. On the probabilities, these Sotho wished to proceed into the tunnel to report for work, and unless provoked thereto they had little or no reason to embark on violence, particularly as at that stage they were completely outnumbered.

11.1.6 The ensuing violence that night flowed from this incident and the return shortly afterwards of the group of some 50 armed Sotho carrying the two bodies. No clarity could be obtained as to how the two workers being carried had been injured, but as a result of those two sets of incidents a Sotho/Xhosa division developed having regard to the hostel make-up.

11.2 Cause of the violence - 8 to 11 November 1991

Despite efforts by all parties, a lasting peace was not obtained and violence again broke out resulting in further deaths and injuries at No. 4 shaft hostel. The evidence relating to this violence and the violence that erupted at No. 2 shaft hostel was insufficient for any definite findings to be made as to the causes. It is probable, however, that the No. 4 shaft hostel violence of 3 and 4 November 1991 had this follow-up and the violence at No. 2 shaft hostel was a spill-over.

11.3 Cause of the violence - 24 and 25 November 1991

11.3.1 In Thabong township there flourished a criminal gang of Sotho known as Russians. This phenomenon in mining area townships with Sotho mineworkers is fairly widespread.

11.3.2 A former Sotho mineworker was linked with the Russians at Thabong - some evidence described him as a leader of the Russians. He was later identified as one Stephen Nkhopea, who had been killed during the violence of 8 to 11 November 1991.

11.3.3 The evidence shows collaboration between the Sotho at No. 4 shaft hostel and the Russians to take revenge for the many Sotho killed and injured previously during the hostel violence. The killing of Nkhophea was probably an added reason for Russian involvement.

11.3.4 The Russians, with the assistance of Sotho workers, infiltrated No. 4 shaft hostel on the night of 24 November 1991 and ruthlessly attacked sleeping Xhosa workers, killing and injuring many.

12. RELEVANCE TO THE VIOLENCE OF THE HOSTEL SYSTEM

12.1 The violence was not caused by the hostel system.

12.2 The hostel system provided the arena for the violence and

permitted the instant formation of groups, normally living amicably, into two hostile factions ready to engage in violent conflict.

12.3 It is common cause that the hostel system is unsatisfactory. Negotiations are at present continuing between the interested parties to deal with the matter.

13. THE RELEVANCE TO THE VIOLENCE OF THE NATIONAL STAY-AWAY CALLED BY COSATU, NACTU AND OTHER ORGANIZATIONS ON 4 AND 5 NOVEMBER 1991

13.1 The call provided the *casus belli*. However, the stay-away call was a factor present at all mine hostels. Yet violence only occurred at a few, and then to a far lesser degree than at Steyn No. 4 shaft hostel.

13.2 A militant group of workers at No. 4 shaft hostel was determined to ensure strict observance of the stay-away call. This group clashed with some Sotho who were equally determined to go to work.

14. THE REASON OR REASONS FOR THE CONTINUANCE AND ESCALATION OF THE VIOLENCE AFTER 3 NOVEMBER 1991

14.1 8 to 11 November 1991

14.1.1 On the probabilities the violence continued at No. 4 shaft hostel because of a feeling of anger at the earlier violence, and a desire for retribution and revenge.

14.1.2 The violence at No. 2 shaft hostel was probably a spill-over.

14.2 24 and 25 November 1991

The violence at No. 4 shaft hostel, involving the Russians, was a planned attack carried out ruthlessly by the Russians in collaboration with Sotho workers.

15. THE IDENTIFICATION AND DETERMINATION OF THE INFLUENCE, IF ANY, OF POLITICAL AND OTHER ORGANIZATIONS, BOTH SOUTH AFRICAN AND FOREIGN, RELEVANT TO THE VIOLENCE

No political organization appears to have been involved in the violence at the mine. However, certain workers are politically active and the stay-away call was regarded by certain of them as a political call to which they intended to give positive expression. This was particularly so in the case of a number of workers who were also members of NUM. The political influence was therefore strong, but there is nothing to indicate any involvement by any

political or other organization. There is no suggestion of any foreign influence in the violence.

16. THE RELEVANCE TO THE VIOLENCE OF THE REACTION OF FREEGOLD TO THE STAY-AWAY AND ITS COMMUNICATION THEREOF TO ITS EMPLOYEES AND THE REACTION THERETO OF NUM AND ITS COMMUNICATION WITH ITS MEMBERS EMPLOYED AT THE MINE

16.1 The COSATU national stay-away call affected all South African economic activity. Freegold regarded the intended stay-away as an illegal strike, and as a matter of policy it decided on the principle of no work, no pay and disciplinary action. This decision was in fact substantially that of nearly all other mines.

16.2.1 The view of NUM was that the stay-away was not an illegal strike, when one has regard to the absence of a political voice for its affected members in legislative authorities. Therefore, it was submitted, they would vote with their feet as they could not vote with a cross.

16.2.2 When management tried to discuss alternatives to the stay-away, NUM distanced itself, advising that the stay-away was a COSATU call and not a matter on which NUM could negotiate independently.

16.2.3 Although it must have been clear that NUM supported the stay-away call, the NUM branch at No. 4 shaft hostel was ambivalent in its directive to ensure that those workers who wished to

go to work, would be free to do so. This ambivalence was inevitable having regard to the fact that NUM was a key proponent in the COSATU decision to stay away at No. 4 shaft hostel, and yet accepted a policy of freedom to go to work for those who wished to do so.

16.2.4 NUM's submission in regard to the legality of the stay-away was that consideration should to be given to the circumstances that gave rise to it and surrounded the stay-away.

16.2.5 The legality or otherwise of the stay-away does not assist in determining the cause of the violence. There were stay-aways in other mines with no violence, and violence had occurred in the past when lawful strikes had taken place. In fact, at No. 2 shaft hostel there was a partial stay-away and no violence (until the spill-over the following week).

16.3.1 It was submitted further on behalf of NUM that if the policy adopted by the mine had been "no work - no pay" but no disciplinary action, the violence might not have occurred.

16.3.2 The evidence does not support this contention. The dispute was essentially about the prospective loss of pay arising from heeding the stay-away call. There was no evidence that fear of disciplinary action played a meaningful role in the determination of certain Sotho to go to work. It would be idle speculation in the light of what consequently happened to seek to evaluate what might have occurred had the element of disciplinary action not been a feature of management's policy.

16.3.3 The policy of Freegold was substantially the same as the policies of the other mines and there was nothing apparent at the time to foreshadow the violence. In fact both management and NUM did not expect any violence.

16.4 The brief setting out management policy was communicated to the shaft stewards before the mass meeting of workers. The evidence disclosed that management's stance was announced at the meeting.

16.5 However, the perceived view that NUM supported that stay-away must have created some confusion when it was coupled with the announcement that those who wanted to go to work were free to do so.

16.6 Clearly, certain members of NUM at the hostel might not have had a clear indication as to what was really expected of them *vis-à-vis* those who wanted to go to work, particularly as some of these workers were also members of other organizations that were party to and had called for the stay-away.

16.7 In other words, inherent in the situation was the ambivalent position in which NUM found itself. It was a keen proponent of the stay-away (as it was entitled to be) and was also the messenger of the stand taken by management, namely that workers should be free to go to work. This difficult position was compounded by the position taken by NUM, namely that the stay-away call was a COSATU call and not a NUM call and that it could therefore not act

independently. A vacuum or gap in the line of responsibility existed.

16.8 Having regard to the crucial relationship position that NUM holds, decisions taken in one area may have consequences, unforeseen, in other areas. NUM supported the stay-away call and was bound by the COSATU decision. On the other hand, at Steyn it had reached an understanding with management that those who wished to go to work were free to do so. The confusion of a worker who attended the rally at Thabong where the need for a stay-away was emphasized in very strong terms is readily understandable.

16.9 The initial violence arose because if the decision taken by a number of militants to ensure that the stay-away call was observed.

17. THE INVOLVEMENT OF THE SOUTH AFRICAN POLICE (SAP)

There is no evidence of any SAP conduct that contributed to the violence, nor was any allegation made incriminating the SAP. On the contrary, their intervention was welcomed.

18. THE INVOLVEMENT OF MINE SECURITY

18.1 There were a number of allegations indicating that Sotho members of mine security identified themselves with the Sotho fighting group. The evidence was not conclusive, but even if correct it is clear that mine security on the whole was not partial but acted properly in the execution of its duties.

18.2.1 There were also some complaints that management failed to protect those workers who wished to go to work.

18.2.2 The problem with this is that it has been agreed policy between NUM and management for some years that the security profile in the hostel area should be kept to a minimum. No violence was expected and the absence of mine security in the No. 4 shaft hostel at the time cannot be described as a failure by management to protect those wishing to work.

19. RECOMMENDATIONS

19.1.1 A new dimension has been added to the worker-management relationship in the mines. This arises from the removal of some restrictions on political activity in the Republic of South Africa by Black political organizations.

19.1.2 However, political activity has for many years been present on the mines and in mine hostels, but has been conducted covertly.

19.1.3 Because political activity had been prohibited, there was no basis for management and NUM to make provision for such activity in agreements.

19.1.4 The workers on the mines are to a great extent politicized. The degree varies from mine to mine and from area to area.

The direction of politicisation may be fairly unanimous or it may be split into contending directions of political allegiance.

19.1.5 In the ordinary course of worker-management relations, political activity can be declared prohibited at the workplace, particularly as the exercise of such activity may take place outside.

19.1.6 The mines present a situation where this is not possible. The home is the hostel, and the hostel is the work-place, and is part of the property over which management exercises control and has responsibility.

19.1.7 The hostel and the government of the hostel are subject to a number of agreements between management and NUM. Negotiations are at present under way between NUM and management to allow for a more democratic administration in the hostels.

19.1.8 NUM was submitted that management ought to view political stay-aways sympathetically. Management has in turn submitted that there is a need to abide by collective agreements.

19.1.9 The foregoing submissions need not be in conflict with each other.

19.1.10 Having regard to the common objectives of both management and NUM in maintaining a productive unit and a peaceful work

environment, adherence to an agreement regarding political activities in the hostel will allow the aims of both parties to be achieved.

19.1.11 We would therefore recommended that NUM and management negotiate in an effort to reach agreement as to the legitimacy of democratic political activity in hostels. Such agreement should have regard both to the reasonable needs of the worker and the reasonable needs of management bearing in mind management's prerogatives and responsibilities.

19.2.1 NUM submitted the employers' organizations should promote the image of the unions in the workplace. It was argued that it is only when the unions are given credibility that they manage to have an influence over the work force in time of strife.

19.2.2 All the evidence points to a good relationship between management and NUM at Steyn.

19.2.3 There is and always will be tension between management and unions. A reciprocal recognition of respect on both sides would enhance the image of both management and the union. Mutual respect is earned. It cannot be imposed.

19.2.4 No recommendation can be of any value in this regard.

19.3.1 NUM submitted that a system of marshalls should be introduced to deal with control during meetings and the like.

19.3.2 The evidence at the inquiry was that a form of marshalling was in existence. However, this was covert and no persons could be identified as being accountable.

19.3.3 We would recommend that control of meetings and the like be a matter for negotiation between management and NUM, with accountability and lines of responsibility clearly laid down.

19.4.1 It was submitted on behalf of NUM that EPU (Emergency Protection Unit), consisting of mine employees, be dissolved and that mine security be upgraded.

19.4.2 This unit is a form of back-up for mine security in emergency situations. Management was of the view that no upgrading was called for.

19.4.3 There was no evidence justifying any recommendation for a change in the *status quo*, and we see no reason for disbanding the EPU.

19.5.1 It was submitted by NUM that an independent committee be established for the hearing of complaints, from whatever quarter, and to decide disciplinary hearings, with the committee preferably operating on an "ombudsman" basis.

19.5.2 This was objected to by management, *inter alia* as a breach of management prerogative. Leaving aside the logistical difficulties, we would point out that the principle of employer - heard disciplinary hearings is well entrenched in industrial law

and industrial relations in South Africa.

19.5.3 However, having regard to the consequences for the employee of findings in these disciplinary hearings, it is important that the persons conducting the inquiry be suitably qualified and trained and we would recommend that management review existing training to ensure that an appropriate quality and standard of decisions and disciplinary hearing are achieved.

19.5.4 We are mindful of the position of an "ombudsman" in the insurance industry. Consideration could be given to the appointment of a person acceptable to NUM and management (and other interested parties) to a position within the mining industry to perform an analogous role in order to facilitate arrangements between NUM and the mines.

19.6.1 It was further submitted by NUM that members who actively attempt to diffuse potential conflicts should not be singled out and penalised.

19.6.2 No instance of such occurrence was established. Clearly, victimisation, if it occurs, cannot be condoned and must be dealt with within the framework of the existing arrangements between NUM and management and the law. No need for change in this regard has been demonstrated.

19.7 It is common cause between management and NUM that the structuring of the hostel constitution should be finalized to alleviate pressures that a single hostel system may bring to the

lives of the hostel dwellers. We can only endorse this recommendation.

19.8 Management and NUM are engaged in drawing up a code of conduct relating, *inter alia*, to stay-aways. Both agree that this should be completed as soon as possible, We endorse this recommendation.

19.9.1 It was submitted on behalf of management that there was a need to abide by collective agreements and that NUM should ensure that shaft stewards are properly and adequately informed regarding the nature of the obligations under agreements between management and NUM, and that they be trained in the execution of these obligations.

19.9.2 The education of the work force and particularly union officials is an ongoing process. The need for awareness is self-evident. We also cannot but stress the need to abide by collective agreements and any other agreements.

19.10.1 It was submitted on behalf of management that stay-aways on mines are unacceptable.

19.10.2 In this stage of political transition and uncertainty it would not be proper for this committee to make any recommendations in this regard. Stay-aways are a recognized form of political protest. Experience has shown that violence and intimidation were not the norm of the November 1991 stay-away. We must emphasize the need for mature and considered implementation of any form of

political activity and the need to avoid intimidation or violence.

19.11.1 Security and breaches of security in the form of weapon accumulation by hostel dwellers were matters fully discussed in evidence.

19.11.2 Weapon carrying is prohibited in the hostels but the manufacturing and concealment of weapons in the hostels is an ongoing process and is impossible to control completely. The relative freedom of movement in and to the hostels, with minimal access control, assists in alleviating elements of restriction in hostel life. Legal change to the system of access cannot be recommended. The proposed improved hostel arrangements may provide a greater feeling of self-esteem and security for the dwellers and reduce the element of fear and frustration that lends itself to the more primitive need for weapons.

19.12 Both management and NUM distance themselves from any principle of ethnic division in the hostels. We cannot recommend any change in this regard.

19.13 Both management and NUM agree that a good communication system is important and does exist. Difficulties did arise at No. 4 shaft hostel because of the ambivalent situation in which NUM and certain of its members found themselves. However, we do not make any recommendations in this regard other than to stress the need for management and NUM to ensure that existing communication

channels be sufficiently flexible so as to prevent any gaps in communication from occurring.

19.14 An issue as to the desirability of cross membership between political parties and trade unions. Such cross membership is a feature of political life in nearly all present-day communities. We see no reason to make any recommendations in this regard.

19.15 Toyi-toying and political activity on hostel premises are matters to be dealt with between NUM and management. We make no recommendations in this regard.

19.16 The peace committee established at the mine should continue and its efforts be encouraged.

19.17 During the inquiry it became clear that many serious crimes were committed. The SAP are busy with investigation and we leave this matter in the hands of the Attorney-General.

20. CONCLUSION

20.1 NUM, management and the SAP and their legal teams were of the utmost assistance and help. We must express the Committee's appreciation for the manner and content of their contribution.

20.2 The Welkom City Council and its Traffic Department and staff placed their facilities at the disposal of the Committee and the Committee expresses its appreciation for their help.

20.3.1 The Committee was assisted by the Department of Justice. In particular the Committee wishes to thank adv J H S Hiemstra, Deputy Attorney-General of the Orange Free State, for his able participation at all times, and we thank the Attorney-General of the Orange Free State, adv T P McNally, SC, for making him available.

20.3.2 Mr D Appelgryn of the Welkom Magistrate's Office was the Committee's secretary, and his contribution has been invaluable, for which we thank him.

SIGNED AT JOHANNESBURG THIS 24TH DAY OF FEBRUARY 1992.

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G STEYN

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D A BREGMAN

.....

R M M ZONDO

**KOMMISSIE VAN ONDERSOEK INSAKE
DIE VOORKOMING VAN OPENBARE
GEWELD EN INTIMIDASIE**


**COMMISSION OF INQUIRY REGARD-
ING THE PREVENTION OF PUBLIC
VIOLENCE AND INTIMIDATION**

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1992-03-25

Mr P Gordhan
Codesa Working Group 1
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1600

Dear Mr Gordhan

Further to the letter addressed to you by Mr Justice Goldstone and dated 13 March 1992 I attach hereto for your information copies of all press statements and reports issued by the Commission.

Yours faithfully



J F VAN EEDEN
SECRETARY TO THE COMMISSION