



AL3060 - The State vs. P.W. Botha and Appeal Collection

Call Number: AL3060
Title: The State vs. P.W. Botha and Appeal Collection
SubTitle:
Creator: Inventory prepared by Ethel Kriger, September 2004
Origination: TRC Archive Project
Inclusive Dates: 1979-2004
Bulk Dates: 1986-1998
Extent: 0.6 linear metres (6 archival boxes)
Language: Afrikaans and English
Acquisition: Accession Numbers: 04-D2 and 04-D3
Access Restrictions: This collection is open for research
Use Restrictions: Copyright restrictions may apply. See SAHA copyright statement for Use Restrictions.
Copyright: Finding Aid: © The South African History Archive (SAHA)
Abstract: In December 1997 the Truth and Reconciliation Commission (TRC) issued former State President PW Botha with a subpoena in terms of Section 29 of the TRC enabling legislation to answer questions about the policies and activities of the State Security Council during the period of his presidency. The collection includes the records of proceedings of the case of The State v. PW Botha in its entirety as well as the court judgment relating to the subsequent appeal.

Introduction

In December 1997 the Truth and Reconciliation Commission (TRC) issued former State President PW Botha with a subpoena in terms of Section 29 of the TRC enabling legislation to answer questions about the policies and activities of the State Security Council during the period of his presidency.

Botha failed to honour the subpoena and a criminal charge was laid against him. He was tried and prosecuted in the Magistrate Court of George in June 1998.

In August 1998 Botha was found guilty of the charges brought against him and was sentenced to a fine of R10 000 or twelve months imprisonment, and twelve months imprisonment suspended for five years.

Botha's subsequently successfully appealed against the conviction and sentence. The law company 'Ernst J V Penzhorn Attorneys at Law' represented him in the Appeal Division of the Cape High Court.

Related Materials

The collection can also be accessed online at <http://truth.wvl.wits.ac.za/>

A guide to archival resources relating to South African Truth and Reconciliation Commission can also be found at: http://truth.wvl.wits.ac.za/trc_directory.pdf

The following collections resulted from the TRC Archival Audit:

AL3021: Sooka, Yasmin

AL3059: Dealing with the Past (Conference of Protestant Academy of Bad Boll, Germany)

AL3060: The State vs. P.W. Botha and Appeal

AL3061: Auditor General Reports on the Accounts of the TRC.

AL3062: Office of the Public Protector, Synopsis of Cases regarding Complaints involving the TRC

AL3063: Documents relating to the TRC Special Hearings on Health



AL3060 - The State vs. P.W. Botha and Appeal Collection

- AL3066: Materials Relating To TRC Faith Hearings
- AL3068: Harris, Verne
- AL3100: Submission to the TRC concerning Relevance of Economic, Social and Cultural Rights to the Commissions Mandate
- AL3101: Jamiatul Ulama Transvaal, TRC Submission
- AL3102: Amnesty International TRC Materials
- AL3103: Institute for Healing Memories (IHOM) TRC Materials
- AL3110: Centre for the Study of Violence and Reconciliation (CSVr)
- AL3115: Argall, Jane
- AL3116: Cherry, Janet
- AL3118: Marcus, Gilbert
- AL3119: Sheila Meintjies and Beth Goldblatt
- AL3120: Ross, Fiona
- AL3121: Julian Knight and Rudolph Jansen
- AL3125: The Challenge of Reconciliation: A Response of Church and Lay Persons to the TRC
- AL3126: Confession and Reconciliation: A Challenge to Churches in South Africa
- AL3128: Terreblanche, Christelle
- AL3129: Zapiro TRC Collection
- AL3130: African National Congress (ANC) TRC Materials
- AL3131: Cosatu Submission to the TRC
- AL3132: Inkatha Freedom Party (IFP) Submission to the TRC
- AL3134: Iphepha Ndaba Newsletters from the Western Cape
- AL3135: Fester, Gertrude
- AL3136: Villa-Vicencio, Charles
- AL3137: Behr, Mark
- AL3141: Human Rights Watch Materials
- AL3142: NGO Working Committee on Reparations Materials
- AL3143: IDASA Sound Recordings Relating to the TRC

Notes

The materials that make up this collection constitute the records of proceedings of the case of The State v. PW Botha in its entirety as well as a small selection of documents from the subsequent appeal.

The records of The State v. PW Botha are divided into 36 volumes, individually bound. The combined list of contents is bound in a separate volume (item #37). The Heads of Argument as well as the Appendix to the Heads of Argument form separate unbound items (items # 38.1 and 38.2).

Although records of proceedings of the appeal, PW Botha vs. The State are in the custody of the Cape Town High Court, the inclusion of the Judgment of the Appeal serves to complement the existing collection and is also included (item 39.1.3).

Materials collected from TRC Archival Audit.

The TRC Archival Audit

Between 2003 and 2006, SAHA and Historical Papers, University of Witwatersrand embarked on a project to locate, retrieve and make available records relating to the South African Truth and Reconciliation Committee (TRC). The project



AL3060 - The State vs. P.W. Botha and Appeal Collection

entailed conducting an archival audit of all existing TRC records in order to identify and locate documentation in danger of being lost.

In the process of conducting the archival audit, SAHA and HP located many collections from individuals and organizations that participated in the TRC process, including this collection. Selections from these materials as well as TRC related material found in the freedom of Information Collection and other pre-existing SAHA and HP collections, were digitized and can be accessed online at <http://truth.wvl.wits.ac.za/>

A guide to archival resources relating to South African Truth and Reconciliation Commission can also be found at http://www.saha.org.za/pdf/trc_directory.pdf

Inventory

- 1: Volume 1 includes the following: [1979 to 1985]
[1979]
- 2: Volume 2 includes the following: Pages 98 to 191
[14 April 1986]
Annexure I: Extract from the minutes of the SVR 5/86 of 14 April 1986, spesifiek item 7 : 'Oorhoofse GBSPlanne ter beslegting van besondere knelpunte in die rewolusionere oorlog' [Afrikaans]
Annexure J: Dokument: 'Sakelys van die SAKvergadering gehou 10 Julie 1986' [Afrikaans]
Annexure K: Extract from minutes of the SVR 13/86, 25 August 1986 [Afrikaans]
Annexure L: Extract from the minutes of the SVR 14/86, 8 September 1986 [Afrikaans]
Annexure M: Dokument: 'SAW Weermag Inset: Riglyne vir 'n Strategie teen die Rewolusionre Oorlog teen die RSA', 15 Oktober 1986 [Afrikaans]
Annexure N: Extract from the minutes of the SVR 20/86, 1 Desember 1986 [Afrikaans]
Annexure O: GVSwerkgroep strategie document: 'Strategiese oorwegings ten opsigte van die inisiering van die kontramobilisasie in die RSA' [Afrikaans]
- 3: Volume 3 Pages 192 to 291 includes the following: Annexure P: Submission to the TRC by General JV van der Merwe, 21 October 1996 [Afrikaans]
[21 October 1996]
Annexure Q: Amnesty application of former Minister of Law and Order Mr. Adrian Vlok. [Afrikaans]
Annexure to the Charge Sheet: Volume 2: Armed Forces Hearing. [English]
- 4: Volume 4 is a continuation of the Armed Forces Hearing. [English]
- 5: Volume 5 is the Annexure to the Charge Sheet: Volume 3 and covers the Security Hearing, which constitutes the contents of Volumes 6 and 7. [English]
- 6: Security Hearing (continuation) [English]
- 7: Security Hearing (continuation) [English]
- 8: Volume 8 begins with the final part of the Security Hearing. [English] and subsequently includes:
The protocol of proceedings
Introductory argument
Application for postponement
Further applications
Plea
Amended charge sheet
Elucidation of plea
- 9: Volume 9 [mostly in English] deals mainly with the implications of Article 212 B of the Criminal Procedures Act (No.



AL3060 - The State vs. P.W. Botha and Appeal Collection

51 of 1977) as it relates to the case:

[1977]

Kennisgewing involge Artikel 212B: 17 Maart 1998.

Beskuldigde se antwoord involge Artikel 212B: 14 April 1998

Gewysigde pleitverduideliking

Testimony of Paul Gideon van Zyl, witness for the State

- 10: Testimony of Paul Gideon van Zyl, witness for the State (continuation). [English]
- 11: Testimony of Paul Gideon van Zyl, witness for the State (continuation). [English]
- 12: Testimony of Paul Gideon van Zyl, witness for the State (continuation). [English]
- 13: Volumes 13, 14, 15 and the first section of Volume 16 contain the testimonies of seven other witnesses for the State. [Mostly in English] Volume 13 mostly consists of the testimony of:
 - Ruben Richards*
 - Welcome Ntumba*
 - Peter John Storey*
 - Andries Stephanus Botes*
 - Eugene de Kock*
 - Desmond Mpilo Tutu*
- 14: Volume 14 consists of:
 - Continuation of testimony for the State: Desmond Tutu*
 - Testimony for the State: Eugene de Kock [English]*
- 15: Continuation of testimony for the State: Desmond Tutu [English]
- 16: Volume 16 consists of:
 - Continuation of testimony for the State: Desmond Tutu*
 - The amended explication of the plea*
 - Testimony for the State: Martin Coetzee. [English]*
- 17: Volume 17 comprises:
 - 17.1: Judgment
 - 17.2: Sentence
 - 17.3: State exhibits: Volume 1.
 - [1997]
 - Documents included in this volume are:*
 - Document A: item pertaining to the TRC enabling legislation*
 - Document B: submissions made by FW de Klerk of the National Party to the TRC*
 - Document C and D1D8: minutes and various correspondence of the TRC (1997)*
 - Document E: the amnesty application of JV van der Merwe with Annexures. [main application in English]*
- 18: Volume 18 consists of:
 - Document E: Amnesty application of General J van der Merwe (continued). [Annexures in Afrikaans]*
 - Document F: Amnesty application of Mr. Adrian Vlok. [Afrikaans]*
- 19: Volume 19 consists of:
 - [14 April 1986]
 - Document F: Amnestieaansoek A J Vlok (continued) [Mostly in Afrikaans*
 - Document G: Excerpt of Botha's communication with Tutu [English]*
 - Document H: Antwoord deur Botha op vraag gestel deur WVK op voorleggings deur ander politieke partye [Afrikaans]*
 - Document I: Amnestieaansoek van H Snyman. [Afrikaans]*
 - Document J: Notule van Staatsveiligheidsvergadering op 14 April 1986. [Afrikaans]*
- 20: Volume 20 consists of Four sets of minutes of the SSC and includes:



AL3060 - The State vs. P.W. Botha and Appeal Collection

[25 August 1986]

Document J: (continued) [Afrikaans]

Document K: Minutes 25 August 1986 [Afrikaans]

Document L: Notule van Staatsveiligheidsvergadering op 8 September 1986 plus aanhangsels. [Afrikaans]

Document M: Skrywe deur Staatsveiligheidsraad met betrekking tot Konsep Nasionale Strategie teen die rewolusie oorlog teen die RSA Nr. 44 gedateer 27 November 1996 [Afrikaans]

- 21: Volume 21 consists of documents that deal with the issue of torture and with both official and statesanctioned tolerance of torture and includes:

[24 Jan]

Document N: Skrywe deur Staatsveiligheidsraad aan lede van die GVSwerkgroep gedateer 24 Januarie 1987: 'Strategiese oorwegings ten opsigte van die inisiering van die kontramobilisasie in die RSA' [Afrikaans]

Document O: Amnesty hearing: General van der Merwe [English]

Document P: Printout of lists of allegations of torture by members of the security forces for the period 1980 to 1989

Document Q: Graph depicting the occurrence of torture for the period 1980 to 1989. Graph printed from the TRC database

Document R: Extract from a case of the European Court of Human Rights which deals with the definition of 'official tolerance' [English]

Document S and U: Excerpts (2) of Craig Williamson's testimony at the Armed Forces Hearing [English]

Document T: Minutes of the SSC meeting of 18 July 1985 [Afrikaans]

Document V: NIS berig: 'Verslag oor die intelligensie symposium', Conciliumgebou, Pretoria 25 Junie 1982 [Afrikaans]

Bylae A: Tipiese navorsingsprobleme in die intelligensietaak [Afrikaans]

- 22: Volume 22 consist of Exhibits of the State Vol 1 (contd) including:

Continuation of Bylae A:

Dokument: Tipiese navorsingsprobleme in die intelligensietaak [Afrikaans]

Bylae B

Dokument: 'Die problem van decking in die intelligensietaak' [Afrikaans]

Document W: An excerpt from Major Craig Williamson's testimony at the Armed Forces Hearings

Document X: An excerpt from General van der Merwe's testimony at the Armed forces Hearings

Document Y: Further quote of General van der Merwe

Document Z, AA KK and LL: Transcripts of the State Security Council Hearings at which Vlok had testified

Document BB and II: Transcript of the State Security Council Hearings at which RF Botha had testified

Document CC and DD: Transcripts of the State Security Council Hearings at which JV van der Merwe had testified

Document EE and FF: Transcripts of the Armed Forces Hearings at which Brigadier Oosthuizen had testified

Document GG: Transcript of the Armed Forces Hearings at which Brigadier Schoon had testified

Document HH: Transcript of the Armed Forces Hearings at which Major Crafford had testified

Document JJ: Written submission by Leon Wessels, former Deputy Minister for Law and Order, submitted at the State Security Council Hearing.

Document MM: Concluding remarks made by Pik Botha at the State Security Council Hearings

Document NN: Concluding remarks of General Magnus Malan at the State Security Council Hearings

Document OO: Minutes of the SSC. Point 4. Heading: 'Terroristeanval in Silverton' [English and Afrikaans]

- 23: A continuation of State Exhibit: Volume 1(a). Volume 23 consists of:

[18 February 1980]

Document PP: Minutes of the meeting of the State Security council in Cape Town, 18 February 1980.

Document QQ: Notule van 'n vergadering van die Staatsveiligheidsraad nr. SVR3/79 gedateer 12 Februarie 1979.

Bylae A: Riglyne vir die Staatsveiligheidsraad om 'n langtermyn nasionale strategie t.o.v selfverdedigingsaksies te formuleer

Document RR: Notule van buitengewone vergadering van 'n Staatsveiligheidsraad tydens 'n besoek aan die operasionele gebied in SuidwesAfrika van 28 tot 30 Julie 1983



AL3060 - The State vs. P.W. Botha and Appeal Collection

- Aanhangsel A: Voorligtingstuk aan 'n buitengewone SVRvergadering op 28 Julie 1983: Die bedreiging wat SuidelikeAfrikastate vir die RSA inhou*
- Aanhangsel B: 'n Evaluasie van bestaande SuidelikeAfrikastrategie: Opsomming van gevolgtrekkings en aanbevelings*
- Document SS: Dokument: Aanbieding BSB aan H SAW kommentaar*
- Dokument: Memorandum - BSB Jaarbeplanning 1987*
- Aanhangsel A: Dokument: Verdubbeling van BSB asook binnelandse betrokkenheid.*
- Document UU: Notule van 'n Staatsveiligheidsraad vergadering gehou op 9 Junie 1986*
- Document VV: Transcript of the SSC hearing at which N Barnard testified*
- 24: Volume 24 is a continuation of the State Exhibit: Volume 1(a) and consists of:
[2 April 1990]
- Document WW/Bylae A: Geheime Optredes, 2 April 1990*
- Document XX: Minutes of a meeting of the State Security Council, 25 September 1889. [Afrikaans]*
- Document YY: subpoena of General JJ Geldenhuys as well as the concomitant Annexures to the subpoena. [Afrikaans]*
- 25: Volume 25 is a continuation of State Exhibit: Volume 1(a) and includes the following annexures of the subpoena
[21 October 1996]
- Submission to the TRC by General J V van der Merwe, 21 October 1996*
- SA Weermag inset: Riglyne vir ?n Strategie teen die Rewolusionre Oorlog teen die RSA*
- GS2/461/02 Meid vir bandage Kola'en Mnr'(SSVR) (p 87)*
- Strategiese oorwegings ten opsigte van die inisiering van die Kontramobilisasie in die RSA gedateer 24 Januarie 1987 (pp 90 ? 102)*
- Sakelys van die SAKvergadering gehou in die Wesvleuel Uniegebou op 10 Julie 1986 (pp 103)*
- Aanbieding BSB aan H SAW: H SAW Kommentaar, gedateer 28 April 1987 (pp 104 - 105) [Afrikaans]*
- Document ZZ: Press statement issued by Archbishop Desmond Tutu of 30 May 1997*
- Document AAA: Subpoena to PW Botha dated 17 September 1997 [English and Afrikaans]*
- 26: Volume 26 continues with State Exhibit: Volume 1(a) and includes:
[18 November 1997]
- Document BBB: Subpoena to Botha dated 18 November 1997 and the response of Botha's Defence Counsel*
- Document CCC: Fax from E J V Penzhorn to TRC*
- Document DDD: Document: Security Intelligence and State Security Council Act No. 64 of 1972*
- Document EEE: Written questions by the TRC to Botha*
- Document FFF: Written responses by Botha's attorney*
- Document GGG: Minutes of the TRC held 16 December 1995*
- Document HHH: Uittreksel uit amnestieaansoek van Brigadier Schoon [Afrikaans]*
- Document III: Letters addressed to the TRC from the National Intelligence Agency*
- Document JJJ: Document addressed to Archbishop Desmond Tutu from Alex Boraine (11 December 1996) with questions of the TRC to the ANC as well as questions from the IFP to the ANC. [Note: Document JJJ is not included in printed volume 26]*
- Document KKK: Main list of amnesty applications received by the TRC*
- 27: Volume 27, a continuation of State Exhibit: Volume 1(a), comprises three sets of records:
- Document KKK (cont): A main list of amnesty applications.*
- Document LLL: Notification in terms of Section 19 (4) of the TRC enabling legislation to Botha*
- Document MMM: Minute No. 132 that extends the work period of the TRC by six month*
- 28: Volumes 28 to 31 constitute State Exhibit: Volume 2, that comprises the responses of P W Botha to the questions set in terms of Section 31 of the TRC Act. [All responses(antwoorde) are in Afrikaans]
- 29: Antwoorde op vrae deur die Waarheids en Versoeningskommissie aan Oud President P W Botha. [All responses(antwoorde) are in Afrikaans]
- 30: Antwoorde op vrae deur die Waarheids en Versoeningskommissie aan OudStaatspresident P W Botha. [All



AL3060 - The State vs. P.W. Botha and Appeal Collection

- responses(antwoorde) are in Afrikaans]
- 31: Antwoorde op vrae deur die Waarheids en Versoeningskommissie aan OudStaatspresident P W Botha (vervolg).
[All responses(antwoorde) are in Afrikaans]
- 32: State Exhibit: [23 October 1996 to 5 January 1998] Volume 3 includes 32 pieces of correspondence which documents efforts of the TRC to encourage Botha to cooperate with the Commission. Addressers include:
[23 October 1996]
A Boraine
PW Botha
Archbishop Desmond Tutu
Hanif Vally
Ben Minnaar
Ernst J V Penzhorn
Research Department of the TRC
- 33: Volumes 33 to 36 comprise the Defence Exhibits. Volume 33 includes:
Document: 'Justice in Cataclysm: Criminal Tribunals in the wake of mass violence'.
Dokument: 'Rewolusionere Oorlogvoering:Grondbeginsels van teeninsurgensie'.
Document: 'Public statements by the ANC Leadership'.
Document: 'Appendix Four to the ANC's 2nd submission to the TRC ? List of MK operations'.
Document: 'Appendix Five to the ANC's 2nd submission to the TRC - armed actions for which target category and/or responsibility is uncertain'.
An excerpt of the testimony of Mr Maharaj at the Armed Forces Hearing of the TRC/Western Cape.
- 34: Volume 34 includes:
*An excerpt of the testimony of Dr N Barnard at the Armed Forces hearing of the TRC/Western Cape.**Document:*
An excerpt of the testimony of Mr. R F Botha at the Security Hearing of the TRC/Gauteng.
An excerpt of the testimony of Mr Vlok at the Security Hearing of the TRC/Gauteng.
An excerpt of the testimony of Mr Meyer at the Security Hearing of the TRC/Gauteng.
An excerpt of the testimony of J L Meiring at the Armed Forces Hearing of the TRC/Western Cape.
- 35: Volume 35 includes:
Document: 'African National Congress Constitution'
Document: 'The basic documents of the Pan Africanist Congress of Azania'
- 36: Volume 36 includes:
[21 Feb 1998]
Persverklarings deur die Waarheids en versoeningskommissie (25 press statements from both Afrikaans and English newspapers)
Ongenommerde Bewysstuk: Bedigde Verklaring van Paul van Zyl, Executive Secretary of the Truth and Reconciliation Committee, 21 Feb 1998.[Title in Afrikaans, Text of document in English].
Kennisgewing van Appel. [Afrikaans]
Gewysigde Kennisgewing van Appl. [Afrikaans]
Magistrate's Reasons [English].
- 37: Gekombineerde Inhoudsopgawe Pages i to xxix
- 38: Heads of Argument including Appendix. [15 June 1998]
[15 June 1998]
This folder consists of:
- 38.1: Case GSH 15/98, In the matter of: The State versus Pieter Willem Botha: Heads of Argument
- 38.2: Case GSH 15/98, In the matter of: The State versus Pieter Willem Botha: Appendix to the Heads of Argument
- 39: Documentation from Ernst Penzhorn regarding the APPEAL: PW BOTHA vs. THE STATE, including:



AL3060 - The State vs. P.W. Botha and Appeal Collection

39.1: Correspondence with Ernst Penzhorn [8 March 2004]
[8 March 2004]

39.2: JUDGMENT: [1 June 1999]
[1 June 1999]

*In the High Court of South Africa (Cape of Good Hope Provincial Division) Case No.: A192/99 Date: 1 6 - 1999
In the matter of: PIETER WILLEM BOTHA: Appellant Versus THE STATE: Respondent*

39.3: Cartoon by Zapiro: 'Trying to land the Big One' [29 August 1996]
[29 August 1996]