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# focus

ON POLITICAL  
REPRESSION IN  
SOUTHERN AFRICA

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## NAMIBIA-ANGOLA BORDER ZONE CLEARED

The forced removal of civilians from the border zone of northern Namibia has now been in full swing for more than three months. The intention of the South African regime, first announced in October last year, is to create a heavily patrolled, depopulated *cordon sanitaire* 250km long and several kilometers deep along the Kwanyama tribal authority's entire frontier with Angola. The mass evacuation, described by the authorities as a tactical move to safeguard the lives and property of local residents, leaves the way open for a concerted build-up of military and defence forces in the area. The cleared strip can be used as a base for South Africa's continuing operations inside Angola as well as an all-out attack on SWAPO's guerilla forces.

There have been no official pronouncements of the numbers of people involved since the removals got under way but the effects could be traumatic, particularly for the very large numbers of Ovambos who have relatives, friends and other contacts in Angola. There has always been considerable traffic by local people across the border, which in the past has consisted of a waist-high wire fence.

The Commissioner-General for the Indigenous Peoples of South West Africa, Mr Jannie de Wet, confirmed in mid-October that the removal of entire villages, kraals, shops, cafes and other businesses had already started. He said that people would be compensated for the loss of their property out of the Kwanyama tribal fund, and that new land would be allocated to them. The

authorities claim that new clinics and hospital services are to be established to replace those lost by the move, and that living and working conditions will be better in the new areas. (WA 17.10.75)

The United Nations Committee on Trust and Dependent Territories have been warned that the removals will cause mass dislocation and splitting of families. Rev. Frederick Houghton, Vicar of St. Peter's Anglican Church in New York City and formerly stationed at Odibo on the Namibian border, told the Committee that five Church centres, two hospitals and several schools would have to be abandoned and that the Ovambo people would forfeit the use of the best watered farmland in the region. (WA 29.10.75)

The first stage of the evacuation has been to remove those residents described by the authorities as "squatters". They are being followed by those with "vested interests" in the area, the "traditional farmers", kraal inhabitants and businessmen. A special committee has been set up with the Ovamboland "homeland" cabinet, under whose authority the Kwanyama tribal area falls, to monitor the removal of these "permanent" inhabitants.

Since October, the Ovambo Tribal Police have been receiving special training under South African supervision and have been re-equipped with automatic weapons. At the beginning of December, reinforcements from the South African police counter-insurgency unit were flown up from Pretoria to the Ovamboland border zone as a second line of attack to

the Defence Forces operating inside Angola. The men have been hand-picked for their experience in combatting guerillas and many have served in Rhodesia. They have had instructions to wipe out "terrorist infiltration". "We are going to clear Ovamboland", commented the South African Minister of Police. "It is a fairly strong group we are sending." (WA 5.11.75, 18.11.75; ST 14.12.75; RH 5.12.75)

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Note: Copyright in the map of Rhodesia in Focus No.1 p.7 vests in the Gemini News Service, 21 John Street, London WC1.

# namibia

## DETENTIONS CONTINUE

Repressive measures in northern Namibia have been intensified in the past 2-3 months, especially since attacks on white civilians, attributed to black guerillas, occurred shortly before Christmas. In addition to the detainees listed in *Focus No.1 p.11*, the following are known to have been arrested:

EVA MWANDINGI  
HENDERINA SHAKETANGE  
OLIVIA MBANGULA  
ESTER SHANGANO  
HILENI ELIJAS  
KAINO MALWA

— all nurses, arrested in Engela on Monday 20 October. ANNA HASHEELA, also a nurse, was detained but subsequently released following church pressure. She has a 9-month old baby.

VICTOR NKANDI  
YUSUF SAGARIAS

REV. STEPHEN SHIMBODI, an Anglican priest whose parish adjoins the Angolan border, was reported to have been arrested in December under the emergency Proclamation R17.

MARIA MUESHIHANGE, the sister of a SWAPO official, was also reported detained at this time.

OTHNIEL KAAKUNGA, SWAPO Secretary of the Interior, who was released on 3 October, was arrested again on 22 October, at 5 o'clock in the morning. He was taken from his home in Windhoek by the police to the Pass Office and locked up for three hours on the grounds that his pass was not in order. He was eventually released with a warning. The cat-and-mouse act was repeated the following day, when both Mr. Kaakunga and Elifas Munjaro, SWAPO Secretary of Foreign Affairs were locked up for a time under the pass laws. In a letter to the *Windhoek Advertiser*, Kaakunga said that this act of "harassment to the last degree will not deter me from fighting for one Namibia and one nation". (WA 12.11.75)

Other detainees are known to have been moved around from prison to prison inside Namibia. Relatives, friends and attorneys have been denied access. In November, a member of the American Lawyers' Committee for Civil Rights under Law, Dr. Erwin Griswold, acting on behalf of the Lutheran World Federation,

was allowed to see a number of detainees who were flown from Ovamboland to Windhoek for the interview. But Bishop Leonard Auala, head of the Ovambo-Kavango Lutheran Church and Dr Lukas de Vries, head of the Evangelical Lutheran Church in Namibia are among those who have been refused permission. (RDM 21.11.75)

SKINNY HILUNDWA, SWAPO Northern Region Chairman detained on 27 August at Oshakati in Ovamboland, was released on 31 October. He was reported to have contracted an illness during his detention.

## "TERRORISM" TRIAL STARTS IN WINDHOEK

After weeks of official stalling, and protests from both SWAPO and the Namibia National Convention, six of the people detained following the assassination of Chief Filemon Elifas finally appeared in the Windhoek Supreme Court on Monday 1 December (see *Focus No.1 p.10*). However, although the Attorney-General of South-West Africa had confirmed at the end of October that the police investigation into Chief Elifas's death had been completed, the charges, except in one instance only, made no mention of the murder. The charges, framed under the Terrorism Act, accuse all six people of being members or active supporters of SWAPO, and of taking part in "terrorist activities aimed at overthrowing the lawful administration of South West Africa" between 1 April and 6 May 1975. All are alleged to have provided money and materials to people opposed to the South African regime and operating in Namibia, Angola and elsewhere. (RDM 31.10.75. 2.12.75)

The accused are:

AARON MUCHIMBA — SWAPO National Treasurer and Organizing Secretary, arrested in Windhoek on 19 August, is accused of supplying R380, a radio and "comforts" such as blankets. He is also alleged to have purchased a Landrover with the intention of giving it to an anti-South African group.

ANDREAS NANGOLO, who was detained in Ovamboland, is accused of buying a Landrover and handing the vehicle over to one Usko Nambinga who in turn was to pass it on.

HENDRIK SHIKONGO is the only person directly accused of having anything to do with Chief Elifas's assassination. He is alleged to have provided transport for a man called Nicodemus Mwahi and two strangers, knowing that they were intending either to abduct the Chief, or to kill him. It was these people, the charge sheet claims, who, either jointly or separately, did in due course carry out the assassination.

The other three accused, all of them women, are nurses who were arrested in

Engela. One of them is only 18 years old. They are:

RAUNA NAMBINGA, detained on 17 September, is accused of crossing into Angola to meet a SWAPO group there, and of giving a dress, soap and sanitary towels to a Miss Kafaila, one of its members. She is also alleged to have provided money.

NAIMI NOMBOWO, who was detained on 20 October, is charged with presenting R10 to Usko Nambinga who was to pass it on to a group with "violent" intentions. ANNA NGAIHONDJWA, was detained along with Naimi Nombowo, and is charged with the same offence of providing money.

Throughout the first two days of the case 200 people picketed the Windhoek Supreme Court, singing SWAPO songs and paying tribute to exiled and imprisoned leaders of the liberation movement. Placards were carried bearing such slogans as "SWAPO is sure for victory, Freedom Now, Now..." "Illegal regime have no right to try the just cause!" and "We are suffer (sic) for a free united Namibia". At one stage the judge ordered the main doors of the courtroom to be closed to shut out the sound of singing voices. Police were called, with dogs, but reportedly did not intervene.

In the event, the trial was postponed to 16 February 1976, following an application from the defence for further time in which to prepare the case. The trial will take place in Swakopmund. The defendants have not yet been asked to plead. (WA 1/2.12.75)

## CHURCH WORKERS EXPELLED

Margaret Valentin, a church worker employed in the offices of the Anglican Diocese of Damaraland, was ordered by the South African regime at the end of November to leave Namibia "forthwith".

Ms. Valentin (30) is married to an Angolan and worked for the Dependents' Conference, an organization which arranged transport for wives and families to visit imprisoned relatives. After representations had been made to the Department of the Interior, she was granted an extension from 30 November to 5 December, but no reason was given for her expulsion order. Ms. Valentin joins, among many others, Bishop Colin Winter, Anglican Bishop of Damaraland, and the Rt. Rev. Richard Wood, the Suffragan Bishop, as a victim of the regime's persecution of the church. Shortly after her expulsion, Jonathan Lloyd, a 19-year-old student from England was summarily put on the plane back to London by the South African immigration authorities. He had arrived in Cape Town with the intention of spending 10 months in Windhoek as a volunteer with the Anglican Diocese of Damaraland. He was immediately served with a prohibition notice and refused access to relatives in Cape Town or to the British Embassy. (WA 1.12.75; GN 4.12.75; RH 19.12.75; RDM 18.12.75)

# BLACK CONSCIOUSNESS TRIAL DRAGS ON...

## south africa

In late 1974 three to four dozen people connected with the Black Consciousness movement were detained under the Terrorism Act after the holding of two rallies, one in Durban and one at the University of the North at Turfloop, to celebrate the inauguration of the FRELIMO-led transitional government in Mozambique on 25 September. Fifteen months later some of them are still caught up in the ensuing legal proceedings in one of South Africa's longest political trials.

It is now apparent that the demonstrations, which were peaceful until the police intervened, were used as a pretext for an attack on the Black Consciousness movement which has been a prominent feature of South African politics since 1970. By staging a show trial, in which the attempt has been made to equate the aims and activity of the Black Consciousness movement with "terrorism", the government has apparently sought to eliminate some leading figures, to intimidate others and to crush the whole movement.

But the militance of the accused and their sympathisers, the publicity which the trial attracted internationally — at least in its early months — and the nebulous character of the charges have made the case turn out differently. Although it started in a blaze of publicity one year ago, it is now dragging towards an end which will probably be inconclusive, and may even be, for the Security Police, a fiasco.

### The Arrests

On 24 September 1974 the Minister of Justice banned all meetings organized or supported by SASO (the South African Students Organisation) and the BPC (Black Peoples Convention). Nevertheless the following day two rallies went ahead, without explicit backing from these groups, and were broken up by police using dogs and (at Turfloop) tear gas. In Durban a crowd of about 1,000 people gathered outside a closed stadium. Police with dogs scattered them and a number of people were bitten.

Within a few hours the head office of SASO in Durban had been searched and 12 young blacks detained under the Terrorism Act. Offices and homes as far away as Cape Town and Johannesburg were also raided. The ensuing arrests were country-wide and continued throughout October and November. By

early 1975 the total number of persons detained in this connection was around forty.

Those detained included several well-known black militants connected with SASO, the BPC and other black organisations such as the Black Allied Workers Union (BAWU), the Theatre Council of Natal (TECON) or the Peoples Experimental Theatre (PET). Some were African, some Indian and some Coloured, the majority being from Natal. Arrests were also made at Turfloop, in Cape Town and on the Rand. Precise details are unavailable because no official announcement or confirmation of detentions is made. By April 1975 about a dozen of the original detainees had been released and twelve had been charged. The rest remained in custody, without access to relatives or lawyers.

### The Battle over the Indictment

The trial began on 31 January when 12 detainees appeared at Pretoria Magistrates Court charged under Section 2(1)(a) of the Terrorism Act. The 12 were Saths Cooper, Muntu Myeza, Mosioua Lekota, Aubrey Mokoape, Vincent Nkomo, Jeremiah Nefolovhodwe, Gilbert Sedibe, Rubin Hare, Strini Moodley, Sadeque Variava, Zitulele Cindi and Solly Ismail.

An 81-page charge sheet produced on 7 February alleged a conspiracy between 1968 and 1974. Particular charges included conspiracy to transform the state by unconstitutional revolutionary and/or violent means; conspiracy to condition blacks for violent revolution and to create and foster feelings of racial hatred towards whites; the portrayal of historical events to encourage anti-white feelings; the publication of subversive and anti-white literature and plays; the holding of subversive gatherings; and the discouraging of foreign investment and co-operation with the South African authorities.

The accused, though detained in isolation for four months, were in good spirits. They entered the court singing a freedom song, giving the clenched fist salute, and shouting 'Amandla' (Power). (RDM 1/8.2.75)

On 11 February Sivalingham Moodley (Strini's brother) joined the 12 others, accused on the same charges. In March the trial opened before Justice Boshoff in Pretoria Supreme Court, when a new 105-page indictment was given to the

defence; the lawyers representing the accused were Roy Allaway SC, David Soggott and Harry Pitman SC. (RDM 12.2.75, 13.3.75)

When the case re-opened in May after another postponement, the defence asked for further details of the charges, in particular the dates, places and names of alleged conspiracies. On 16 May the judge instructed the state to "furnish particulars in a way that will clarify the charges". He also granted the defence leave to apply for the indictment to be quashed if the state did not comply. (RDM 6-8, 17/21.5.75)

The state complied; extracts of further details quoted in the press included the passing of provocative racialistic motions at meetings and the staging of revolutionary plays — wrongful actions committed with intent to endanger the maintenance of law and order in the Republic. Documentary evidence appended to the charge included the SASO newsletter, articles advocating dedication to liberation, black power poems and plays. Several of the articles quoted stressed the necessity for unity between the black groups, discipline and self reliance. (RDM 21/22.5.75)

Other materials were even less relevant; the defence response was to apply for the indictment to be quashed. The judge agreed it was confused; he asked "How do these particulars explain this mass of information (the indictment) that neither I nor the defence can understand?" He suggested that the prosecution draw up a new indictment. (RDM 10-12.6.75)

On 23 June new charges were presented against 11 of the accused, while those against Solly Ismail and Sivalingham Moodley were dropped and they were released, after being in custody for six and five months respectively. Four other detainees, none of whom had been charged, were also released. They were Aubrey Mokoena (eight months detention) Tom Manthata (eight months) Ben Louw (six months) and Haroon Aziz (nine months). (RDM 24/26.6.75)

The new joint indictment named nine accused: Cooper, Myeza, Lekota, Mokoape, Nkomo, Nefolovhodwe, Sedibe, Cindi, and Strini Moodley. The main charges alleged conspiracy to bring about violent revolutionary change, the fostering of racial hostility, and preparations to recruit black people into a power bloc hostile to the state and the white popula-

tion. Separate charges under the Terrorism Act were preferred against Sadeque Variava and Rubin Hare, and they were remanded in custody until September. (See *Focus No. 1*) (RDM 28.6.75, 12.8.75)

#### The Accused Refuse to Plead

With the new indictment the trial resumed on 27 June. When on 4 August the defence requested a further adjournment Justice Boshoff refused, saying his earlier sympathy for the defence had now evaporated since the state had clarified the indictment. (RDM 28.6.75, 5.8.75)

On 11 August the trial eventually began. Saths Cooper refused to plead after the judge interrupted his statement that the indictment was "a perversion and a travesty of the true order". Mosioua Lekota told the court that he could not relate the charges against him to any of his actual activities and Muntu Myeza that he was "innocent of any crime". Dr. Mokoape's statement could not be quoted in the press because of his banning order. Zitulele Cindi said "We are charged with plotting violent revolution but it is we who have been the victims of institutional violence. If building schools and dams throughout the country and trying to instil a feeling of self reliance among blacks is terrorism then I would plead guilty to the charges, but I do not believe it is terrorism". He refused to plead. Pleas of not guilty were entered by the court for all the accused. (RDM 13/14.8.75)

#### The Trial Gets Under Way

Between the opening of their case on 13 August and its closing on 8 October the prosecution called over 20 witnesses, from whose evidence it appears that the state wished to prove that the 25 September rallies were illegally organised by SASO, and that SASO and BPC were dedicated to violent revolution.

The first witnesses dealt with events at the University of the North on 25 September 1974 when police broke up a students' rally. Prof. H.J. Oosthuizen stated that on the day of the rally he had seen an objectionable poster at Turfloop and had had stones thrown at him. Constable C.G. Van der Merwe said that the students had been ordered out of the university hall and had gathered on the football pitch. They were charged by the police, stones were thrown, and the police had retaliated with tear gas. (CT 14.8.75)

The first detainee witness was Ahmed Bawa, who had been arrested on 25 September. A medical student at Natal University, who claimed to have joined the Black Allied Workers Union in 1974, he gave evidence relating to the spreading of Black Consciousness philosophy through drama, poetry and music. He alleged that BPC plans fell into three phases: raising black consciousness, con-

frontation and reconstruction. Cross-examined, Bawa said that he had rewritten his statement four times before the police were satisfied with it. He had been told that he would be released after giving evidence if it was satisfactory to the court. (RDM 16/22/24.8.75)

The second detainee witness was Jonas Ledwaba, a former University of the North student and SRC secretary. Unexpectedly he denied that SASO advocated violence; the prosecution asked that he be considered a hostile witness, as his evidence contradicted his statement to the police. (RDM 19.8.75)

The third detainee witness was Harry Singh, public relations officer for the BPC from January 1974, who was detained on 25 September 1974. He was hissed and jeered by the spectators in the gallery while he gave evidence, and acknowledged a defence suggestion that as early as 1972 Saths Cooper had accused him of being a police agent. He gave evidence relating to the 1972 BPC conference, saying that long-term BPC strategy included sending people out of the country for military training. He claimed that BPC also planned to work towards a national strike by black workers aimed at crippling the economy. As part of his evidence he read out pamphlets produced by the BPC and distributed during the Durban brick-workers' strike and the Chatsworth bus boycott in 1973.

Cross-examined, Singh said he had 'seen the light' while in detention. He had made his statement in November 1974 and had subsequently been allowed home for two short periods. He admitted he had been convicted of incitement to racial hostility in 1973 and that his passport had been renewed the following year, but denied that he was incriminating Cooper to save himself. (RDM 23/26/29.8.75, 3.9.75)

An early police witness, Lt. Kornelius, who had been present at the 25 September rally in Durban, said the crowd had been singing and dancing outside the stadium until the police dogs appeared, whereupon they fled. (RDM 5.9.75)

Sgt. H.J. Basson of Windhoek said that a letter from the Rev. Mayathula (one of the detained, but not accused) suggesting a general strike had been discovered during a raid on the SWAPO Youth League secretary Israel Ezriel Taaipope (who was sentenced to 5 years' imprisonment, 3 suspended, in July 1974 and is now on Robben Island). (RDM 11.9.75)

Capt. D. Wessels, security branch officer in Durban, said he had raided a shop belonging to Cooper after the 1973 strikes and found BPC pamphlets, for which Cooper admitted responsibility.

Capt. Kadala Nayager, security branch officer in Durban whose job was to keep observation on Indian students and activists, said in reply to the defence that he did not think SASO or BPC were

engaged in terrorist activities or were trying to form a black power bloc hostile to whites (one of the specific charges). (RDM 17/24.9.75)



Mr Mosioua Lekota



Mr Saths Cooper



Mr Strini Moodley

25 September saw the anniversary of the first detentions. A birthday cake was brought into court and the defendants asked the prosecutor, deputy Attorney-General Rees to blow out the candle, which he did, but declining to join them in singing "For they are jolly good terrorists". He promised not to use their singing as evidence against them. (RDM 26.9.75)

### State's Case Closes

Some of the prosecution evidence appeared weak or unreliable. One police witness said he had seen no evidence of SASO or BPC organisation at the Durban rally except Ms Vino Cooper wearing a BPC tee-shirt. Muntu Myeza had arrived only after the crowd had been told to disperse. (RDM 3.10.75)

Later the court was shown a 5 minute video recording of the Durban rally, showing people singing and giving the clenched fist salute. Judge Boshoff remarked that they did not appear to be hostile. A senior security police officer, Maj. Stadler, stated that Myeza had led part of the crowd in a Zulu war dance towards the gates of the stadium. To the court's amusement he demonstrated the alleged dance. (RDM 8.10.75)

A final witness was Mr. C. van der Merwe, senior lecturer in political science at Rand Afrikaans University, who discussed BPC and SASO strategy, interpreting several SASO documents as insinuating that 'the daily lives of blacks in South Africa are very poor' and that the state acted arbitrarily towards them. He claimed they wished to undermine the legitimacy of the state authorities and prepare the black people for violent revolution against the present system. (RDM 3/4.10.75) With this the State closed its case.

On 8 October Maj. Stadler said that the seven people still detained in connec-

tion with the case (who had not been called or charged) had all made statements and would be released. They were Rev. Mayathula (376 days detention), Yugen Naidoo (376 days), Cyril Ramaphosa (376 days), Mahlomola Skosana (365 days), Harold Dixon (365 days), Ben Langa (361 days) and Danile Landingwe (361 days). A year of their lives had been spent in custody, under interrogation and sometimes assault, without access to families or lawyers, with no legal or moral justification. (RDM 8/9/11/13.10.75)

### Defence Case Opens

The main line of the defence case, which opened in November, was that SASO, BPC and the other organisations concerned are lawful bodies whose aims do not include violent revolution and are not substantially different from those expressed by other critics of the government such as homeland spokesmen or the Progressive Party. The defence submitted that the state had entirely misunderstood SASO and BPC aims which were the formation of black solidarity for the purpose of successfully bargaining with the government for their rights and thereby avoiding violence.

The cross examination of Mr. Van der Merwe's 'expert' evidence was designed to show that the language used in Black Consciousness documents was similar to that used by other government critics, and he was asked why only one was considered 'revolutionary'. During cross-examination the judge intervened with questions asking whether strong demands for rights could not be made without demolishing the system, and saying that Van der Merwe had misread a SASO statement that more delay in ending white domination would lead to 'another Vietnam'. Said the judge: "Surely it is a warning rather than a threat?". (RDM 25/26/27.11.75, 10-12.12.75)

While this cross examination was proceeding there were indications that the police were reacting to the attack on the state's case by rough handling of the accused.

In the heat of the summer tarpaulins had been nailed over the windows of the police van carrying the accused to court, to stop them shouting 'Black Power slogans' from inside. The van as a result was 'unbearably hot'; on 5 December the nine accused, reluctant to enter the van, had been forced in by police dogs. The defence registered a complaint, but on 9 December there was another incident, at Pretoria Central Prison, when the men were again forced into the truck. Mr. Strini Moodley and Dr. Aubrey Mokoape were examined by a doctor when they arrived at the court. Pandelani Nefolevodwe was said to have bitten a policeman's hand during the scuffle; he



was later charged with assault (RDM 6/9/10/18.12.75)

In December the trial was adjourned for the recess. It is due to open again on 2 February, when the defence will apply for the discharge of most or all of the accused (RDM 13.12.75)

### CURRENTLY HELD DETAINEES

(not including those mentioned on p.9):  
(Date of detention in brackets. Further details in *Focus No.1.*)

BURGERS, Raymond (Feb 1975)  
CEKESANI, Moki (16.10.75)  
DISEKO, Mathew (17.2.75)  
KGOSANA, Kgaungelo (August 1975)  
KHUBEKA, Themba (17.9.75)  
KHUTSWANE, Kingdom (19.10.75)  
LANGA, Mandlekona (1.4.74)  
LENKA, Basil (14.2.75)  
LUBIMBI, Rev. Enoch (2.10.75)  
MACGLUWA, Patrick (14.2.75)  
MAJEKE, Phumzile (Oct 1975)  
MAKOENG, Jannie (2.10.75)  
MBAU, Hector (10.2.75)  
MBETE, Mphakama (27.9.75)  
MOATSHE, Theo (26.10.75)  
MOSEGOMI, Nathaniel (Sept 1975)  
NKONDO, Winston (16.10.75)  
NTSHONA, Boyce (16.10.75)  
PILANE, Raymond (18.9.75)  
SELOANE, Clive Mandla (27.8.75)  
SITHOLE, Vusi (Sept 75)  
WILLIAMS, Bernard (10.2.75)  
ZANI, Thami (16.10.75)

SEVEN AFRICANS from the Kimberley-Kuruman area, names unknown (August 1975).  
FOUR SCHOOL STUDENTS from Orlando West (2.10.75)



Mr Justice Myeza

# TERRORISM ACT TRIALS

## SUTTNER

The trial of Raymond Sorrel Suttner (whose arrest was described in *Focus No. 1 p.3*) began on 3 November. Suttner, whose mother was voted "Woman of the Year" in 1974 by readers of the *'Star'* for her outstanding work for the mentally handicapped, was described by her as follows:

"He is a senior lecturer in the law faculty at Natal University. He has been internationally recognised on African customary law and last year he presented a paper in the Hague on the subject. He had been invited to present another in Tokyo". (*Star 4.7.75*)

Suttner pleaded guilty to two counts of contravening the Suppression of Communism Act (1) by taking part in the activities of an unlawful organisation (namely the ANC and/or the Communist Party); (2) by undergoing training or inciting or encouraging other persons to undergo training, or obtaining information

which could be of use in furthering the achievement of any of the objects of communism or any unlawful organisation.

The main evidence brought by the State on the first count was provided by two detained university associates of Suttner, who were named as accomplices:

- Laurence Kuny, a law student, said he had been recruited into the ANC by Suttner, first through reading and then, in late 1974, through instruction in ways of evading Special Branch surveillance and interrogation.

- Jennifer Roxburgh, lecturer in Zulu, said she had volunteered to help Suttner produce and post the publications "Inkululeko" (Freedom) and "Vukani" (Awake) and had translated the Freedom Charter into Zulu, because she felt strongly about the inequalities suffered by blacks in South Africa.

Sentencing Suttner to 7½ years' imprisonment, the Judge President of Natal, Mr Justice James, said that the witnesses' evidence had proved to his

satisfaction Suttner's guilt on the second charge, that of encouraging others in unlawful activities. On the first count, he said, the State had failed to prove that Suttner had conspired directly with members of the ANC or Communist Party in producing his pamphlets. However, "the Court is entitled to draw the inference that conspiracy exists from the facts of the case", and he was satisfied that conspiracy had been amply proved. The courtroom was packed with spectators both white and black, including Mrs Winnie Mandela. Suttner saluted them on leaving the court. (*RDM 4-7/11/13/14.11.75; CT 4-7/11/13/14.11.75; Natal Mercury 7.11.75; RH 5/6/13.11.75*)

Before sentence was passed Mrs Mandela spoke to Suttner; she said: "You have done one of the greatest things in life by being part of the formation of the history of this country. Have courage". Afterwards the crowd sang the African anthem "Nkosi Sikelele Afrika". (*Daily News, Durban, 13.11.75*)



## THE ONLY WAY TO FREEDOM

*Extracts from Raymond Suttner's statement to the court 6 November 1975*

"From my earliest encounters with black people I have been aware of the contrast between my own living circumstances and theirs. I felt it could not be right that some people, merely because they were black, should have to live with less than they needed.

Nothing that I learnt as I grew older seemed to justify the situation where the rights that people have, the disabilities they endure, the place where they live, where they can work, who they can love, should be determined by the colour of their skin.

In spite of what I heard from most whites, I came to feel that equal rights were not something to be feared but the basis of real security. With all that was claimed for apartheid there were few who would argue that it could benefit all people, or that it could benefit all people equally, or that it could even provide for all people.

Notwithstanding its rechristening as separate development, none of the main features of apartheid have changed. The black people have never sought Bantustans and similar unrepresentative institutions.

Their real leaders have made it clear they consider the whole of South Africa to be their homeland and that they will accept nothing less than their right to share fully in its power and prosperity....."

*In looking for a meaningful political role to play in South Africa, Suttner sought out information on the ANC and its allies.*

"When I read their literature and heard their aims I saw that they did not advocate indiscriminate violence nor the setting up of a tyrannical regime.

I found they had simple aims — to make

a new society that would benefit not a few, but all.

When I studied their background I had little doubt the banning of the ANC and Communist Party were undemocratic and unjustified acts. There had been no evidence of these organisations using violence before they were made unlawful bodies. Similarly their turn to violence could hardly be called unprovoked or without cause. What response had their many years of non-violence received?...."

*Suttner continued to read about and discuss ANC policy and came to admire the dedication of men like Albert Luthuli, Bram Fischer and Nelson Mandela.*

"I came to feel I could contribute most by aiding the ANC and its allies. I came to believe that the course they followed was the only way to achieve freedom in our country.

There are factors in the ANC decision that make it abundantly clear they did not desire violence, that they use it reluctantly. ANC strategies are aimed at minimising conflict and promoting democracy. Violence is not seen as an instant answer to all problems.

Certain types of actions such as terrorism or undisciplined heroic acts are rejected as exacerbating the bitterness and hostility. I am convinced this policy responds to suppression and oppression in the only way possible.

The work that I have done for the freedom movement here made rigorous demands. It is true that I need not have done this. But this was the course that I honestly concluded to be the best way of contributing to our future .....

I have no doubt that the policies of the ANC and Communist Party hold out a bright future for us. I know that the liberation



movement is neither anti-white nor terrorist, that it works for the day when men and women will have all the comforts and security they need.

I realise this is not the picture that is presented to South Africans. But because I know that it is true I could not obey a law expressly aimed at suppressing these democratic forces.

It was my duty, I honestly believe, to act honestly and for the benefit of all our people, to inform them of their situation and the way to an alternative, free society. That was the aim of my work.

I am not the first nor the last to break the law for moral reasons. I realise the Court may feel I should have shown more respect for legality. Normally I would show this respect. I would consider it wrong to break laws which serve the community. But I have acted against laws that do not serve the majority of South Africans, laws that inculcate hostility between our people and preclude the tolerance and co-operation that is necessary to a contented and peaceful community.

For this I will go to prison. But I cannot ever accept that it is wrong to act as I have done, for freedom and equality, for an end to racial discrimination and poverty. I have acted in the interests of the overwhelming majority of our people. I am confident I have their support." (*Natal Mercury* 7.11.75)

## BREYTENBACH

The trial of Breyten Breytenbach, the Afrikaans poet whose detention in August was reported in *Focus No. 1*, took place in November. Expected to be "one of the most sensational trials in South Africa" (*ST* 26.10.75) it proved far less so following Breytenbach's decision to plead guilty. In late October the prosecutor Dr. Percy Yutar told the press that it was possible other detainees would be charged with Breytenbach, and that "if Breytenbach appears on his own we expect the case to last only a week or two. If there are other accused then of course the case will take much longer". In the event Breytenbach appeared alone, on 21 November.

The published indictment, covering the period 30 December 1972 to 25 August 1975, contained a long list of charges under the Terrorism Act relating to an organisation called Atlas or Okhela allegedly set up at the request of the African National Congress (ANC) and consisting of White persons who had as their aims and objectives "the revolutionary transformation of South African society" by various means, including "armed struggle and underground work", and "the participation of White organisations in all forms of revolutionary struggle as led by the ANC." The ultimate goal of the organisation was said to be the overthrow of the government and its replacement by a "Black Government and/or a Communistic Society".

Sixteen co-conspirators were named.

Of these, three were alleged members or supporters of the ANC living in Europe:

- Barend Schuitema, 35, a South African exile who is a leading figure in the Dutch Anti-Apartheid Movement, and was alleged to have visited SA under a false name in August 1974;
- Jobst Grapow, brother of detainee Mrs. C Rohm and a former Stellenbosch University student, who lives in Rome and was alleged to have accompanied Breytenbach and his wife on a trip to SA in early 1973, to have recruited his sister for the organisation and to have taught her methods of concealing messages;
- Donald Moerdijk, a Hollander.

Two of the alleged co-conspirators are leading members of the African National Congress: Oliver Tambo (President) and Johnny Makhatini. One of the alleged co-conspirators, Rev. Don Morton, a South African living in the USA, was described by the prosecutor as a co-author of the scheme. Ten of the alleged co-conspirators were white persons detained in August or September; they were:

Lawrence Dworkin, Horst Kleinschmidt, Norman Lewis, Gerry Mare, Patrick Martens, James Polley, Megan Reilly, Clara Durten Rohm, Karel Tip, Gordon Young.

Of these all but Reilly were kept in detention until the conclusion of the case. (For details, see *Focus No. 1*, p.6). (Jenny Curtis, administrator of the Industrial Aid Society who was detained on 23 September allegedly in connection with this case, was not named in the indictment nor called as a witness).

Breytenbach entered a plea of guilty to the main charges under the Terrorism Act with certain amendments, which were accepted by the prosecution. These were to the effect that he and his co-conspirators aimed at a black government not a communistic one, that they were active supporters not members of the ANC, and that the organisation (initially called Atlas, and later Okhela) planned to build an infra-structure to help the ANC in its struggle (not "its armed struggle," as originally) against the government. Various specific allegations, some relating to the importation of explosives and arms, were dropped. Breytenbach admitted to:

- founding Atlas-Okhela to further the aims of the ANC in collaboration with Schuitema, Moerdijk, Grapow and Makhatini, and helping to draft its manifesto (which was produced in evidence by the prosecution);
- recruiting Mrs. Rohm into Atlas-Okhela during January 1973 and asking her to take messages, and to obtain details of how to tap telephones and turn radio receivers into transmitters;
- instigating Young, Dworkin, Martens and Lewis to receive training in methods of secret communication, of forging docu-

ments and of resisting police interrogation, at times between January 1974 and June 1975;

- conspiring to and entering South Africa illegally (in collaboration with Schuitema who, Breytenbach claimed, had twice visited South Africa in disguise, in August 1974 and August 1975);
- asking a friend Dr Coetzee to store a parcel of forged documents for him, and air-hostess Anna van Schalkwyk to post letters for him;
- instigating various co-conspirators to assist persons entering and leaving the country illegally, to communicate by coded messages and use code names, and to launch an underground press in SA.

Five of the detainees gave evidence for the prosecution:

*Mrs Rohm* who described the accused as "an artist and a dreamer", said she had been brought into the affair through her brother Jobst Grapow and a desire for excitement in an otherwise dull life. She said she was not a leftist, but certain aspects of apartheid upset her. She had told her brother she was feeling desperate and asked him what she could do about the situation in SA. Though asked to obtain information she had done little, and deeply regretted her involvement. "I have done a terrible thing" she said. (She denied being pregnant, as reported in the press).

*Norman Lewis*, a salesman, and *Lawrence Dworkin*, a trainee journalist, described how they had met Breytenbach, Moerdijk and Schuitema in Europe and discussed methods of clandestine organisation. Lewis added he had met Schuitema in South Africa in disguise when he was allegedly recruiting for Atlas-Okhela. The organisation did not appear to undertake much action.

Mr Lewis, a former Witwatersrand University student, who claimed to have had misgivings about the organisation and later to have become disillusioned with it, said in evidence that he became an active worker for the Industrial Aid Society in Johannesburg in 1974, with the aim of helping Black workers with work problems and to form trade unions. (The Society issued a statement saying that Mr Lewis had left at the end of 1974 and had had no further connection with the Society. Another detainee, Mr Glen Moss, had worked for the Society for four months as its administrative organiser but had been expelled in July 1975). (*RDM* 24.11.75)

*Karel Tip*, immediate past president of NUSAS, described how he had met Schuitema both in Europe and South Africa (through Robert Young). He had declined to join Atlas-Okhela but had remained in touch, and Schuitema had given him and Gerry Mare R3,000 jointly, for unspecified purposes. In August 1975 he had met Breytenbach and read the Okhela manifesto. He told the court the scheme was 'adventurist' and 'tentatively conceived', especially as far as violence was concerned.

*Glen Moss*, 23, who was a prominent student leader at Witwatersrand University in 1973-74, described how he met 'Dick' (code-name for Breytenbach) in August and showed him certain of his (Moss's) publications.

On 25 November Breytenbach was found guilty of having committed 11 "terrorist" acts. In mitigation the defence pleaded that he was an artist, and quoted some of his poems, which were "among the most beautiful in the Afrikaans language". The security policeman in

charge of the case, Lt. Col. J.C. Broodryk, (who led the police hunt for Bram Fischer when he went underground in 1965), also spoke on Breytenbach's behalf, saying he was an idealist and a dreamer, had co-operated with the police and shown regret.

For himself Breytenbach read a long statement describing his life and the state of mind which had induced him to act as he did:

"I now realise that the way in which I tried to work for the growth of our South African civilization and future, and the methods which I employed were wrong; that my doings were stupid and that with which I became involved could harm other people. I should wish to, if I could, repair the injustice and the pain which I've caused my people over the years..... I want to apologise to the people whom I've hurt, unintentionally, by what I've said or written. I specifically wish to apologise to the Prime Minister for an insulting poem which was addressed to him. There is and was no justification for it. I want to thank here in public Col. Broodryk of the SA Police, officer in charge of my case, as also the officers who worked under him for the correct and humane way in which I was treated from the beginning of my detention.....

As for the people who testified against me: I do not hold it against them. On the contrary I am glad only that they were not with me in the bench of the accused. And of those among them, who got into trouble through my doing or visit I want to ask forgiveness".

He concluded by quoting a passage from the New Testament about "putting away childish things" and seeing "through a glass darkly", ending with "faith hope and charity, these three: but the greatest of these is charity".

Dr Yutar, (who prosecuted in the Rivonia trial of 1963), winding up for the prosecution, asked Breytenbach to state that the police had not influenced his decision to plead guilty, and that he had been misled by people abroad. Before echoing the defence's plea for the minimum 5 year sentence, Yutar devoted some attention to the alleged involvement of the World Council of Churches and the Christian Institute, but neither Horst Kleinschmidt nor James Polley, held in this connection, was called as a witness.

The judge said that although Breytenbach was sorry for what he had done and although the Okhela plans had got no further than the talking stage, his intentions had been serious and violent; he sentenced Breytenbach to nine years imprisonment. An appeal against the sentence was lodged. Following the conclusion of the case, the ten people held in connexion with it were released. (ST 26.10.75, 9/16/23/30.11.75; RDM 11/22/25-29.11.75; Times 22/24-27.11.75, 5.12.75)

## ERIC MOLOBI

On 24 November Eric Molobi, 28, an employee for 7 years of a Johannesburg electronics company, who lives in Pimville, Soweto was jailed for five years after being found guilty on two charges under the Terrorism Act. The prosecution alleged that he had incited people over a period of 9-10 months in late 1973 and early 1974 to commit acts of sabotage against public buildings such as Urban Bantu Council offices, post offices, roads and bridges, and to undergo military training. He was further charged with planning to form trade unions in order to cripple the economy by a general strike, and with distributing a subversive pamphlet.

Molobi, who was detained in March 1975 together with his cousin and several others who appeared as state witnesses in his trial, said that while serving as a workers' representative on an employees' council he had become interested in black trade unions as a means of improving black workers' conditions. Though not a union member himself, he had visited the offices of the Black Allied Workers Union (BAWU) to learn more about trade unions.

He had discussed the idea of forming an 'umbrella' national trade union organisation with a former ANC member during a weekend visit to Botswana in 1974. Describing himself as a lay preacher with the Seventh Day Adventist church and an admirer of Martin Luther King and the politics of non-violence, Molobi said that in 1974 he had written and distributed at stations and bus stops in Soweto a pamphlet entitled 'Freedom Now' to divert African attention from the South African Games and discourage them from participating in the government's 'homeland' policy. He had used the word 'revolution' to mean a process of non-violent change, and 'war' in a metaphorical sense, as in 'war against inflation'.

State witnesses included:

- Thula Nkosi who had translated Molobi's pamphlet into Zulu and helped distribute it. He had decided to give evidence during his nine months in custody.
- Xola Nuse who had accompanied Molobi to Botswana where, the State alleged, plans to establish bases to train blacks in military and sabotage techniques were discussed.
- Simon Radebe, a teacher, detained since 4 February, who had also accompanied the accused to Botswana.
- Vincent Selanto, who described how his statement was obtained by the security police after he had been detained at 3 a.m. one morning in March. He was beaten and accused of being 'a Frelimo'; after he agreed to this the beating stopped. "I was then taken to an office where the police dictated my statement to me. Different officers would come in and tell me what to write or what my friend had said." He further alleged ill treatment while in detention; when asked by the prosecutor whether he had complained of this Selanto said he did not know who to complain to as the only police he saw were those who beat him.

Frank Molobi, called to the witness box, refused to give evidence for the State saying "It is naive and foolhardy of the Security



PHINEAS PHETO, a poet and drama teacher from Johannesburg, re-united with his wife. He was arrested on 5 March and detained incommunicado under the Terrorism Act for 8½ months. He first appeared in court on 20 November charged under the Suppression of Communism Act, and on 10 December was acquitted of a lesser charge of defeating the ends of justice. The earlier charge was not proceeded with.

According to the prosecution, in October 1974 Mr Pheto drove to Botswana, giving a lift as far as Mafeking to Clarence Hamilton, a school student. Earlier that month Hamilton had been convicted of publishing a subversive pamphlet and possessing directions for making petrol bombs and grenades and was on bail awaiting sentence. He escaped to Botswana, allegedly partly through Mr Pheto's help. The judge accepted the defence submission that the State had not proved that Mr Pheto knew of the conviction, and he therefore dismissed the case. (RDM 11.12.75)

Branch to expect me to testify against a man with whom I have the same political views and who is my first cousin". He would not testify for a State that had shown no dignity or concern for oppressed black people. For this refusal he was jailed for four months. When the court adjourned spectators shouted out "Amandla!" (Power) and sang freedom songs.

(On 5 December the *Rand Daily Mail* reported that Frank Molobi had been charged with defeating the ends of justice and released on R100 bail. This appears to be inconsistent with the earlier report in the same paper (18.11.75) of Molobi being sentenced to 4 months imprisonment).

The defence case for Eric Molobi, who pleaded not guilty to the Terrorism Act charges but guilty to lesser charges under the Suppression of Communism Act and the Customs and Excise Act (bringing banned publications "Africa" and "China Reconstructs" from Botswana), rested on his adherence to the principles of non-violence (to which the state witnesses had testified) and to his honest and open character. Molobi was acquitted on the first two items under the main charge, dealing with incitement to sabotage and conspiring to establish trade unions with a view to bringing about economic chaos. On the third and fourth counts, that of writing and distributing a subversive pamphlet, and that of inciting Selanto, Nuse and Radebe to undergo military training in Botswana, he was convicted and sentenced to five years on each count, to run concurrently. This is the minimum sentence under the Terrorism Act. Leave to appeal was granted. (RDM 11-13/15/18-21/25.11.75)



## POLICE SWOOP IN NATAL: MORE DETAINED

Subsequent to the publication of *Focus No.1* (see pp. 1, 2, 6) a further 7 detentions in September and October became known, bringing the total of detainees to at least 74 by 31.10.75. Those detained (with date of arrest in brackets) were: Nathaniel Mosala (28.9.75); Irvin Mehlahe, Michael Moletsane and (?) Lengane (1.10.75); and three youths of Clermont Township, Durban - Vuyo Jack, Thembanani Phanzi and Sotomela Ndukwana (all in mid-October). (*RDM* 25.11.75; *Human Rights Committee Bulletin No.4* 10.12.75)

By the end of the year 55 people were known or believed to be currently in detention under the Terrorism Act. Though several of those detained earlier in the year were brought to court in November and December, either as witnesses or accused, the number of detainees were replenished by new arrests:

On 3 November Mrs Ethel Kayo Mafuna, aged 35, teacher at a Higher Primary School in Alexandra and wife of Bokwe Mafuna (banned with other SASO members in 1973 and now living in Botswana) was detained by the security police. She was subsequently known to be being held at John Vorster Square (police HQ in Johannesburg), along with

Elizabeth Kgosana, from the Kimberley-Kuruman area, detained in August. (*RDM* 4.11.75, 11.12.75)

In the first week of December a large police swoop in Natal resulted in the detention of a number of people, including some (possibly three) in Empangeni about whom no details have been reported. (*RDM* 5/8.12.75, *Star* 13.12.75) The others include nine from Pietermaritzburg, several of whom worked at the Edendale Hospital:

- Sipho Khubeka, 32, admissions clerk for the past 10 years.
- Truman Magubane, 32, hospital catering worker, father of 6 children.
- Sampson Nene and France Kunene, hospital workers.
- Harry Gwala, formerly secretary of the South African Railways and Harbours Workers' Union (Non-European), member of SACTU local committee, and chairman of the Pietermaritzburg branch of the African National Congress, who was banned and restricted for five years on 30 June 1972. His previous ban expired in 1968, while he was in prison serving a sentence of 8 years imposed on 11 June 1964, for recruiting men for military training. In 1953 he was one of several trade unionists who were removed from

office by order of the Minister of Justice.

- Anthony Xaba
  - Stanley Msibi
  - Ephraim Mthlane, 56, of Imbali, newspaper delivery man.
  - Gerald Mdadlose, studio assistant at Fine Arts Dept. of Natal University.
- Dismissing speculation that these detainees had entered South Africa secretly from Botswana, Brig. Prinsloo of Natal's Security Police said they were not armed nor involved in terrorist activities. (*RDM* 5/8.12.75; *Star* 13.12.75)

On 5 December two former political prisoners were detained in Durban:

- Judson Khuzwayo, 37, of KwaZulu, research assistant at the Institute of Social Research, Natal University, who has served a 10-year jail sentence for ANC membership.
- Harold Nxasana, 38, of Umlazi, employed by the Institute of Industrial Education, a formerly banned person who also served a term of imprisonment following the expiration of his banning order in 1969. (*RDM* 6.12.75)

On 19 December two more Africans from Hammarsdale, Natal, were detained: Matthews Meyiwa, father of two children, and Joshua Zulu. (*Star* 27.12.75)

## CURRENT POLITICAL TRIALS

### VARIAVA and KHUZWAYO

Sadeque Variava, the Johannesburg teacher first detained in January and charged under the Terrorism Act apparently in connection with plays staged by the Peoples Experimental Theatre (see *Focus No.1*) was remanded on R5,000 bail to appear at Pretoria Supreme Court on 10 December.

On 24 November Mrs Nomsisi Khuzwayo, administrative assistant with the Black Peoples Convention (BPC) and mother of a two-month-old child, was arrested in Durban and brought to Pretoria where she was charged under the Terrorism Act on 25 November. Granted R2,000 bail on condition she stayed in Rustenburg, Khuzwayo was remanded to appear with Variava on 10 December.

Together they appeared in Pretoria Supreme Court, charged on two counts under the Terrorism Act. The case was adjourned until 1 March. (*RDM* 30.10.75, 25/26.11.75, 9/11.12.75)

### MOLOKENG AND 6 OTHERS

On 10 November seven people appeared in Johannesburg magistrates court on a charge under the Terrorism Act, said to relate to an offence committed on 19 August. Remanded in custody three times (on 10 and 24 November and 8 December) the accused are due to appear again on 26 January. They are:

Joseph Maleballe MOLOKENG, of Johannesburg, president of the National Youth Organisation (NAYO), arrested 25.7.75; Kgotoduwa Andrew MOLOTSANA, of Johannesburg, teacher, NAYO member, arrested 30.7.75;

Bheki Winston LANGA (23) of Durban, NAYO executive member, arrested 10.9.75; Miss Phumza DYANTYI, a nurse of Kuruman, arrested 20.8.75; Amos MASONDO, of Johannesburg, clerk with the Chamber of Mines, arrested 16.9.75; Patrick MAISELA, hospital technician of Johannesburg, arrested on or around 9 October 1975; Benjamin MSENYANA, a clerk. No further information.

Until the trial opens it will not be clear to what extent, if at all, the charges relate to NAYO activities. It is possible that the last-named accused is in fact a NAYO member from Johannesburg arrested in late July 1975, whose name was given in *Focus No.1* as Sandile Mfenyana. Two others, reportedly connected with NAYO and detained since September but not yet mentioned in connexion with this trial are Themba Kubheka of Durban and Mphakama Mbele, a student at the University of the North. (*RDM* 11/25.11.75, 9.12.75; *Fourth Report on Detention and Trial Under the Terrorism Act*, Christian Institute)

### HAMILTON, BLOEM AND 2 OTHERS

On 20 November several young Coloured men from Johannesburg who had been detained since February appeared in Johannesburg Magistrates Court on charges under the Terrorism Act. Remanded on bail of R500 each, they re-appeared on 4 December.

They were Weizman Hamilton (20), Chris Weimers (22), Johnny Ramrock (24) and Trevor Bloem (who was originally

charged with Eric Molobi - see *Focus No.1*).

They were among a group of people reportedly detained in connexion with AFRO, a group formed to oppose separate Coloured institutions such as the Coloured Representative Council. (*RDM* 4/23.12.75)

### MOSS AND 4 OTHERS

Early in December, five young whites, all former students associated with NUSAS (the National Union of South African Students), were arrested under the Suppression of Communism Act, apparently in connection with offences said to have been committed in 1973 and 1974. The five were:

Glen Moss (23) SRC president 1973/4 at Witwatersrand University, now living in Johannesburg;

Charles Nupen (25) of Durban, president of NUSAS in 1973-4;

Edward C Webster (33) sociology lecturer at Natal University and former member of NUSAS national executive in 1965;

Cedric de Beer (23) NUSAS seminar officer and former media officer, arrested in the Eastern Cape;

Karel S Tip (30) immediate past president of NUSAS, arrested in Cape Town. Like Moss, he had been detained since August in connection with the Breytenbach case. After giving evidence at the trial they were released, but they were re-arrested a few days later.

Taken to Johannesburg, the five appeared in court on 5 December when they were granted bail of R2,000 (Moss and De Beer) or R1,000 (Nupen, Tip, Webster). The case was adjourned until 2 February. (*RDM* 2/3/5/6.12.75)

# rhodesia

## ZIMBABWE

### TORTURE AND BRUTALITY TO GO UNCHECKED

Deep concern has been expressed by the International Commission of Jurists (ICJ) at the introduction by the Rhodesian regime of the new Indemnity and Compensation Act. The Act, which is retrospective to 1 December 1972, protects members of the security forces and other employees of the regime from civil proceedings being taken against them as a result of acts committed "in good faith for the purpose of or in connection with the suppression of terrorism or the maintenance of public order". (See *Focus No.1, p.7*). Despite an adverse report from the Senate Legal Committee and outspoken protests by African MPs, churchmen and others throughout Rhodesia during the introduction of the Indemnity and Compensation Bill in September last year, it duly passed into law in October. The Senate, although initially agreeing that the Bill contravened the Rhodesian Declaration of Rights, later voted unanimously in its favour on the grounds that its provisions were needed "in the national interest". (RH 20.9.75) The ICJ points out that nowhere in the Act are such crucial concepts as "good faith", "terrorism" or "the maintenance of public order" defined, and that, by protecting the security forces in advance against the consequences of illegalities or atrocities committed by them, the Act "amounts almost to an invitation to excess" (*Review of the International Commission of Jurists No.15* December 1975).

Mr Niall McDermot, the secretary-general of the ICJ, stated at the end of a visit to Rhodesia in October that he had "received much evidence while in Rhodesia of violent brutality not only by terrorists against security forces and civilians they suspect but also by security forces against Africans they suspect". He emphasised that he was particularly concerned at the methods used by the security police during interrogation and stressed the importance of a high-level government decision to eradicate torture and other ill-treatment. (GN 24.10.75) The passing of the Indemnity and Compensation Act, by ruling out impartial adjudication of complaints by the Courts, has been a step in precisely the opposite direction.

Already, the Act is known to have been put into effect to block civil proceedings initiated early in 1975 against Chief Chirau, President of the Council of Chiefs, and a prominent member of the Rhodesian Senate. The case in question was documented by the Catholic Commission for Justice and Peace in Rhodesia (*The Man in the Middle - torture, resettlement and eviction*, published by The Catholic Institute for International Relations, 1975). On 3 February 1975, Cyril and Francis Makunda, two brothers living in a kraal under Chief Chirau's jurisdiction in the Sinoia area, and members of the African National Council (ANC) were summoned to the chief's court. They were questioned by the chief regarding their positions in the ANC and assaulted in person by him. Chief Chirau told them that "he did not want political affairs introduced into his area". (*The Man in the Middle, ibid. p.4*). After persistent kicking and punching the two men were released. They went straight to hospital, where they were found to have extensive bruising and one, a fractured rib.

Soon after the attack on the Makundas, their attorneys in Salisbury began a civil action against Chief Chirau, demanding R\$1,200 on behalf of each brother for assault. The chief, however, as a government-paid and appointed official, comes under the protection of the Act. In March, a letter was received from the Assistant Commissioner of Police for the district, advising the brothers that no prosecution was to be instituted against Chief Chirau without the written authority of the Minister of Law and Order. Within weeks of the Indemnity and Compensation Bill becoming law the Makundas received a certificate signed by the Minister directing that the proceedings underway in the High Court "shall not be continued." (RDM 17.12.75). Under the Act, the complainants have no right of appeal against such a certificate.

Evidence of police brutality towards suspects has come to light during a number of recent trials. Many defendants have spoken of assault and torture in an effort to elicit statements or confessions. Phineas Domboko and Chabaya Gabriel, for example, who appeared in the Salisbury High Court in December on charges of murder and of contravening the Law and Order (Maintenance) Act, claimed that they had been tortured to force them to admit to being involved with guerrillas. Domboko stated in court that he had been given electric shocks by a police officer, beaten, and had a human skull rubbed against his lips until they bled. Gabriel said that following police assaults he had suffered a broken bone in one hand and a broken rib. Their allegations were dismissed as unfounded by the presiding judge, although the two men were eventually acquitted. (RH 9.12.75, 10.12.75)

Brazio Chimungondoro, a resident of Chimanda Tribal Trust Land, Mount Darwin, who was sentenced to life imprisonment in August 1975 on charges of killing four South African policemen and assisting "terrorists", also claimed in the Salisbury High Court that he had been subjected to electric shock torture. Marks were displayed on the upper part of his body. The judge, however, ruled that since the State had not submitted any statement alleged to have been made by the accused, it was not necessary for the Court to make any finding or to comment on this part of Chimungondoro's evidence. (RH 7.8.75)

In December, a District Officer posted to a keep in Chiweshe Tribal Trust Land, was fined R\$250 and given a six months suspended prison sentence for assaulting an African District Assistant. Four other District Assistants, found guilty with him, were also fined. The District Officer, a white man aged 22, said in his defence that his Assistant had been insubordinate, absent without leave, and had assaulted tribesmen. He claimed that two weeks prior to the offence he had been given permission by the District Commissioner to introduce military-type punishments to enforce discipline among his Assistants. In this case the victim had been kicked, punched, hit with a belt and a hosepipe, and made to crawl on the ground with sandbags tied to his shoulders. (RH 13.12.75)

Allegations of ill-treatment of new recruits at army training schools, published in the Rhodesian press in November, led to an official inquiry and a promise from the Minister of Defence of severe action against any member of the armed forces who abused his authority. (SM 3.11.75)

### CLAMP-DOWN ON MEETINGS CONTINUES

The ban on political meetings in all parts of Rhodesia except the Tribal Trust Lands (TTLs) has been extended for a further year, until 8 December 1976. Under Section 12 of the Law and Order (Maintenance) Act, the Minister is empowered to prohibit all public gatherings — defined as meetings of "twelve or more people in a public place" — "for such period as may be specified". In 1973, the maximum duration of such a ban was increased to twelve months.

In August last year, a similar twelve-month ban was imposed on meeting in the TTLs. An African MP, Mr Elijah Nyandoro, has since been fined R\$50 for illegally addressing a meeting of 300 people in his constituency, Mabvazuwa. In terms of the African Affairs Act, certain people — including a member of parliament — are permitted to convene a meeting of more than 12 people in the TTLs without the permission of the District Commissioner. In this case however, evidence was brought that Mr Nyandoro presided at a meeting that had been organised by others. His appeal was dismissed. (RH 12/16.12.75)

## MANY POLITICAL TRIALS IN RHODESIA

Over the six months July to December 1975, a total of at least 45 Africans are known to have been sentenced to a total of 555 years of imprisonment on charges under the Law and Order (Maintenance) Act. A further three were sentenced to life imprisonment, while twelve men received the death penalty or had their appeal against it dismissed. Besides acts of violence associated with guerilla warfare, the offences included encouraging young people to go for military training outside Rhodesia, and giving assistance to African guerillas or failing to report their presence in an area. The people convicted include local officers of the African National Council, teenagers, and villagers from the Tribal Trust Lands, often of advanced years.

The following is a summary of the trials that were reported in the *Rhodesia Herald* and the *Sunday Mail*; in some instances the final outcome was never reported. It can be assumed that many others were tried and sentenced, particularly in the more remote areas and in outlying magistrates' courts, with no mention in these national newspapers.

The accused come from many parts of Rhodesia ranging from Plumtree near the Botswana border to Gokwe and Kariba in the north-west and Mount Darwin in the north-east. Areas near or adjoining the border with Mozambique recur frequently in the reports: Mudzi, Inyanga, Umtali, Melsetter and Chipinga.

### 21 July 1975: Salisbury High Court

JULIUS CHIMEDZA, the first of about 20 members of the ANC held on recruiting charges, tried in camera, press and public excluded. No conclusion reported in the press.

### 30 July 1975: Salisbury High Court

NORBERT MUSHUMA, of Dzingire Kraal, Melsetter, sentenced to 9 years imprisonment for attempting to leave Rhodesia to undergo military training, a charge to which he pleaded not guilty.

### 1 August 1975: Salisbury High Court

An unnamed African youth, aged between 16 and 18, sentenced to 25 years imprisonment for possessing arms of war. Mr Justice Jarvis, passing sentence, said that he had taken it into account that the youth had been abducted by terrorists at the age of 14; he had also co-operated after arrest and given valuable information.

### 6 August 1975: Salisbury High Court

BRAZIO CHIMUNGONDORO (30) sentenced to life imprisonment for involvement in the murder of 4 South African policemen in December 1974. Chimungondoro, from Chimanda TTL Mount Darwin, pleaded not guilty to the murders and also denied charges of assisting terrorists and failing to report their presence. Extenuating circumstances were found by the court for not imposing the death penalty. During the trial Chimungondoro showed the court marks on his body which he said were made by electric shocks administered by the police.

### 12 August 1975: Umtali Magistrate's Court

5 African school students (unnamed), aged between 17 and 20, each sentenced to 10 years imprisonment for attempting to undergo military training in Mozambique.

### 15 August 1975: Salisbury High Court

CHARLES MUJURU and KEFASI MAVURA, from Gatooma, each sentenced to 15 years imprisonment on charges of recruiting six youths for military training in February 1975. Pledaded not guilty.

### 18 August 1975: Salisbury High Court

AGRIPPA MUZAMANA (19), of Ngarima, Melsetter, sentenced to 10 years imprisonment for attempting to attend a course of military training. An unnamed 18-year-old youth was sentenced to 9 years imprisonment for the same offence. Both pleaded not guilty.

### 20 August 1975: Bulawayo Regional Court

Two Africans given suspended prison sentences under the Law and Order (Maintenance) Act. Trial held in camera — names, details of charges and length of sentences withheld.

### (probably) 2 September 1975: Sinoia Magistrate's Court

Preparatory examination of PLAN GWEDE and FANUEL CHINEMUNGU on charges of involvement in the murder of Mr Peter Knight, a police reservist; the attempted murder of Mr Francis Glynn, a tsetse control officer; and being in possession of arms of war. The trial was adjourned until 15 September but the final outcome was not reported.

### 16 September 1975: Salisbury High Court

PHILIP FOYA sentenced to 17 years imprisonment for helping to recruit 17 African youths for military training in Mozambique. "Special circumstances" were found why the death penalty should not be imposed in that the youths had initially been recruited by others. Pledaded guilty. Leave to appeal was refused.

### 16 September 1975: Salisbury High Court

MOVEN MAHACHI sentenced to 15 years imprisonment, 6 conditionally suspended, on charges of helping to recruit 48 young people for military training in Mozambique. Mahachi was Managing Director of the Nyafaru Development Company, Inyanga, and allegedly involved in a recruiting "ring". Pledaded guilty.

### 18 September 1975: Salisbury High Court

SAMPSON MPANDUKI, a teacher from St. Faith's Mission, Rusape, sentenced to 16 years imprisonment, 4 suspended, for recruiting or encouraging 7 of his pupils to undergo military training in Mozambique. Pledaded guilty.

### 19 September 1975: Salisbury High Court

CRISPEN MOBIRA (19) and GOLIATH MUSERE (17) each sentenced to 25 years imprisonment for possessing arms of war, laying a landmine in a road and firing at a Rhodesia Air Force helicopter in the operational area. Both pleaded not guilty. The judge said that it was "a borderline case where the death sentence might well have been passed despite the youth of the accused".

### 26 September 1975: Bulawayo High Court

FRANCIS TAFIRENYIKA MUDZINDIKE PASIPANODYA sentenced to life imprisonment for recruiting 12 senior students from the school where his brother taught in Mashonaland, for military training. Pasipanodya himself studied at the University of Rhodesia and was alleged to be closely connected with ZANU. Pledaded guilty to recruiting six of the twelve students. The judge said his case was a borderline one between death and life imprisonment.

### 26 September 1975: Salisbury High Court

SHANGWA MANGWENGWE (38), from Chiredzi, chairman of the ANC Victoria Province, acquitted of recruiting African youths for military training. The judge said that the accomplices had proved to be unreliable witnesses. Pledaded not guilty.

### 9 October 1975: Salisbury High Court

WILLIAM MAKIWA (22), a single man from Mtoko employed as a general hand at a school in Salisbury, acquitted on all charges at the end of a 9-day trial. Pledaded not guilty to attempting to attend a military training course and to recruiting or encouraging others; and not guilty to an alternative charge of conspiring with others to attend such a course. Three State witnesses were discredited as their evidence contradicted statements made to the police; two other witnesses failed to appear. During the trial allegations of police brutality were made.

### 9 October 1975: Appeal Court, Salisbury

Permission to appeal refused to GESHONI NYONI and BEN MANGENA, sentenced to 18 years and 16 years imprisonment respectively for undergoing a course of military training. Leave to appeal was granted, however, to NEPHAT and SIFELANI MANGENA, both sentenced to 12 years imprisonment for the same offence. All four men had originally pleaded not guilty, but subsequently altered their pleas to guilty. The trial itself was not reported in the press.

### 13 October 1975: Salisbury High Court

JOHN MUTASA, a director of the Nyafaru Development Company, Inyanga, sentenced to 20 years imprisonment, 8 suspended, on charges of recruiting a number of young people for guerilla training. Pledaded guilty. "Special circumstances" found to avoid the death sentence.

### 30 October 1975: Salisbury High Court

TAREWA OLIVER MUZOREWA, an ANC official, sentenced to 15 years imprisonment, 6 suspended, for recruiting 7 youths for military training. Pledaded not guilty. MAKORE D. USHE and REV. TAPADZWA J. NDERERE were cleared of the same charges.

### 12 November 1975: Bulawayo High Court

Judgement was reserved in the case of WILLIAM M. NDHLOVU, described as a "tribesman" and charged with recruiting or encouraging 7 Africans to go for military training between December 1974 and April 1975. Outcome not reported.

### 14 November 1975: Salisbury Regional Court

MANA MARUFU MASAURE and OBERT DANDAWA each sentenced to 10 years imprisonment, 2 suspended, for attempting to undergo military training. Both men came from Kariba Africa township. Masaure was alleged to have crossed Lake Kariba on a rubber tube on 4 February; Dandawa to have swum across on 6 January 1975. They were reportedly arrested and deported by Zambian officials. Both pleaded guilty.

### 17 November 1975: Salisbury High Court

JERVAS KARINDA (20), a teacher at Nyakuchena School, Mudzi TTL, sentenced to 25 years imprisonment for recruiting 6 African youths, five of them under 14, for military training. "Special circumstances" were found why the death penalty should not be applied. The trial opened with Karinda pleading not guilty. Later in the trial a ruling was sought on whether or not "recruiting" implies a willingness on the part of the recruit, since in this case, two of the pupils involved said they were not

aware of what was happening. The prosecution argued that the object of the legislation was to prevent recruiting by any means and was sufficiently wide to include "abduction".

**18 November 1975: Salisbury High Court**  
MORRIS NYAGUMBO (50), former organising secretary of ZANU, sentenced to 15 years imprisonment, 5 suspended, on charges of recruiting a number of young Africans for training, between January and April 1975. Pleaded guilty.

**18 November 1975: Bulawayo High Court**  
KEMBO MUHADI (26), a former school teacher, sentenced to 15 years imprisonment after pleading guilty to two charges of undergoing military training and being in possession of arms of war. A third charge of attempting to recruit people inside Rhodesia for training, to which Muhadi pleaded not guilty, was withdrawn by the prosecution. It was alleged that Muhadi went to Salisbury in 1972 after a spell as a teacher. In 1973 he was recruited by ZAPU and sent to Zambia and then Moscow. He returned to Rhodesia via Botswana in March 1975.

**19 November 1975: Salisbury High Court**  
CHARLES MAYAHLE (33), a teacher of Mwacheta School, Chipinga, acquitted of charges of recruiting youths for training in Mozambique. Mr Justice Jarvis said that the State's case displayed "grave discrepancies" whereas Mayahle had "not been shaken in cross-examination." When the verdict was announced, there was a sudden burst of applause from the public seats. Those responsible were immediately censured by the judge.

**21 November 1975: Bulawayo High Court**  
KALOT NDHLOVU, a 28-year-old miner, sentenced to 20 years imprisonment for encouraging 4 young Africans to join him for military training outside Rhodesia.

**21 November 1975: Bulawayo High Court**  
EDMOS TWALA and AMON CHINYOKO each sentenced to 20 years imprisonment for having undergone military training in Tanzania and bringing weapons into Rhodesia, in the company of a group of guerrillas. On entering Rhodesia, early in 1975, it was said that they had been instructed by ZAPU leaders not to take offensive action during settlement talks.

**24 November 1975: Gwelo Magistrate's Court**  
11 tribesmen for Gokwe, whose ages ranged from 30 to 72, sentenced to between 3 and 5 years imprisonment each for failing to report the presence of terrorists in their area "as soon as reasonably practicable". JOJO HUCHU, a headman, and CHIBWE MANHOKWE, both aged 60, got 5 years; HEREMIAH DAKA (55), MUSORO MSEKIWA (55), MUNHAMO GUNADAYI (55), and JOSEPH MUROMA (40), got 5 years with 2 suspended; CHIYABADA MUSEKIWA — 4 years; FELIX TINARWE (30) and GAMANI TANGIRA (55) — 3 years, one suspended; CHIDUKAI MUTASA (70) and MUTANGI KANDORO (72) — 3 years, 18 months suspended. All pleaded guilty.

**26 November 1975: Salisbury High Court**  
RICHARD S. ZABA (51), a schoolteacher at Gala School, Plumtree, sentenced to 14 years imprisonment, 6 conditionally suspended, for conspiracy in connection with recruiting.

**27/28 November 1975: Salisbury High Court**  
RASHON KAUAKA (23) and UPPERSON MUYAKA (25) pleaded not guilty to having arms of war between February and May 1975, and committing an act of terrorism by raiding a store in Gokwe area on 13 May, stealing R\$300 and locking up 3 men. Also pleaded not guilty to an alternative charge of robbery. Outcome not reported.

**10 December: Salisbury High Court**  
JACOB NDIWENI, a middle-aged schoolteacher

with 4 children, and a former chairman of the Midlands North province of the ANC, sentenced to 14 years imprisonment, 6 suspended, for encouraging terrorist training. Pleaded not guilty. "Special circumstances" were found to prevent the death penalty being imposed.

**12 December 1975: Salisbury High Court**  
PHINEAS DOMBOKO and CHABAYA GABRIEL, both of Musoruro Kraal, Chikwizo TTL, acquitted of the murder of an African whom it was alleged they had reported to terrorists as a "sell-out". Pleaded not guilty to the charge, and not guilty to 2 alternative charges under the Law and Order (Maintenance) Act. A "trial-within-a-trial" took place concerning allegations by the accused that they had been assaulted by police.

**16 December 1975: Salisbury High Court**  
ANTHONY KUNISHORA PEDZISAYI (28), sentenced to 12 years imprisonment for encouraging six youths to go for terrorist training between 1 February and 30 May 1975. A resident of Tshovani Township, Chiredzi and Chiredzi branch chairman of the ANC, he pleaded not guilty. "Special circumstances" were found to avoid the death penalty.

**17 December 1975: Salisbury Appeal Court**  
JEFTA ABRAHAM MUKOMBE, sentenced to 15 years for recruiting, had his sentence reduced to 10 years on appeal against conviction and sentence.

## SENTENCED TO DEATH:

(see *Focus* No. 1 p.8)

**6 August 1975: Appeal Court, Salisbury**

2 unnamed men had their appeal against the death sentence dismissed; the death sentence on a third man was commuted to life imprisonment. The three were convicted in April of murder through their involvement in laying a landmine which subsequently killed one African and wounded a number of others. The two appellants whose death sentences were confirmed claimed that they had been assaulted by the police in order to induce confessions.

**15 August 1975: Salisbury High Court**  
BENSON NCUBE and ROBBIE NYAMBABVU each sentenced to death on charges of recruiting six youths for military training in February 1975. Both men from Gatooma. In December, their appeals against both sentence and conviction were dismissed.

**15 October 1975: Salisbury High Court**  
CHIREZI WAYENI sentenced to death on two counts — taking part in a guerilla raid on a European farm in the north-eastern area in October 1974, and involvement in the murder of Mr Kaitano Phiri in November 1974, together with other terrorists. Sentenced to 15 years imprisonment on a third charge of possessing a weapon of war.

**17 October 1975: Salisbury High Court**  
SHADRECK MACHISA, aged about 30 and living in Salisbury, sentenced to death on a charge of recruiting one other person for military training. Machisa pleaded not guilty to this charge and also of attempting to attend a training course himself. It was alleged that he had encouraged another man to go with him for training in Tanzania. Mr Justice Beck, passing sentence, said that "as the law stood the recruiting of even a single individual was no less a contravention of the section than the recruiting of a number of individuals".

(probably) **30 October 1975: Salisbury High Court**

JOHN HLENGANI, (65) from Nuanetsi District, Victoria Province, sentenced to death for recruiting three of his nephews for military training in Mozambique. It was alleged that the three youths thought they were being taken to look for employment.

**7 November 1975: Salisbury High Court**  
ELLIOT DUBE (22), REZA NYAMARUPA

(18), and IGNATIUS MOTO (17), sentenced to death on three counts of murdering 2 African and 1 European members of the Rhodesian Security Forces in an engagement on 2 April 1975, and of being in possession of arms of war between November 1974 and April 1975. Acquitted on a further charge of committing an act of terrorism by firing on security forces on 19 March 1975. Nyamarupa and Moto were wounded and captured at the scene of the engagement on 2 April; Dube, also wounded, was captured four days later. The trial of a fourth man, REGGIE MUZIKA, was deferred due to his physical unfitness — he became paralysed as a result of wounds and appeared in court on a stretcher. All four men came from the Karoi area, and all pleaded not guilty.

**26 November 1975: Salisbury High Court**  
KUREWAHNDADA MUZHERI (25), a junior ANC official in Que Que district employed as a credit controller by a local firm, sentenced to death for recruiting eight people for military training. A plea that "special circumstances" be found by the court was dismissed, in spite of the defence counsel's argument that Muzheri had not actually sought out recruits and that the recruiting had not been successful.

**12 December 1975: Bulawayo High Court**  
REKISI PIKILI BRANTINO NCUBE sentenced to death on two counts of murder and to 25 years imprisonment on a charge under the Law and Order (Maintenance) Act of entering Rhodesia with offensive weapons and materials. Alleged to have been among a group of guerrillas who attacked a car, killing two white occupants in northern Matabeleland in April 1975. Pleaded not guilty to murder, guilty to the alternative charge. Ncube denied that he took part in the shooting and told the judge he was "terribly upset by what members of the gang did".

(On 16 December, the *Rhodesia Herald* reported that 22 Africans convicted by a magistrate of either helping or failing to report terrorists, had successfully appealed to the High Court and had been set free. The names were not given.)



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Sources and abbreviations: "Africa" — monthly, London; BBC — British Broadcasting Corporation monitoring service; CT — Cape Times; Debates — House of Assembly, Cape Town, (Hansard); GG — Government Gazette, Pretoria; GN — Guardian London; RDM — Rand Daily Mail, Johannesburg; RH — Rhodesia Herald, Salisbury; SAIRR — South African Institute of Race Relations; SM — Sunday Mail, Salisbury; ST — Sunday Times, Johannesburg; Star — The Star, Johannesburg (overseas weekly edition); Times — The Times, London; WA — Windhoek Advertiser.