



News Bulletin of the International Defence & Aid Fund



# focus

## ON POLITICAL REPRESSION IN SOUTHERN AFRICA

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# RHODESIA: "THE GLOVES ARE OFF NOW"

Rhodesia's security forces, faced with rapidly escalating guerilla warfare throughout vast tracts of the country, have now virtually abandoned any pretence of winning the loyalty of local residents of the operational areas. As one territorial officer was reported to have remarked on returning from duty in the war zone: "You can forget about hearts and minds and all that softly, softly stuff. The gloves are off now and it is going to be rough on everybody." African civilian casualties, which have increased dramatically recently according to official figures, are one indication of a general hardening of attitudes. On 12 June, for example, Rhodesian troops were reported by the Botswana Government to have shot dead a Botswana herdsman who had accidentally crossed the border into Rhodesia to round up cattle. The dead man and his companion, who managed to escape, were unarmed. During the month of May alone, 109 African civilians, including 29 "curfew-breakers", were officially admitted to have been killed, compared with 104 guerilla fighters and 18 members of the security forces. The real figures are possibly very much higher. (GN 2.6.76; RH 4.6.76; BBC 19.6.76)

The regime reacts violently to any suggestion that such civilian deaths may be attributable to indiscriminate shooting on the part of the military. A recent letter in the *Rhodesia Herald* from Donal Lamont, Roman Catholic Bishop of Umtali, calling on the authorities to halt "this seemingly senseless killing of so many human beings" provoked an

injured response from a regime spokesman who declared that "in nearly every case persons killed or wounded as a result of breaking curfew regulations have been with terrorists or moving to an area to meet terrorists to provide them with food... and physical comforts." He failed to explain how this was ascertained at the time. As for the remainder, "it is emphasised that no innocent person should be wandering about in a curfew area during the hours when curfew regulations are in force" (RH 11.6.76)

The area subject to dusk-to-dawn curfew regulations has recently been substantially expanded to include an extensive stretch of countryside from Umtali more than 50km south to the small town of Cashel, and straddling the main Umtali-Melsetter road. The order, imposed by the Manicaland Police Commander under the terms of the Emergency Powers (Maintenance of Law and Order) Regulations, prohibits movement at night more than 50 metres away from a house, hut or tent. Anyone who fails to stop on being apprehended may be shot on sight. (The entire length of Rhodesia's border with Mozambique and Botswana has been under curfew since the summer of 1975 and is flanked by a free-fire zone several km deep). (RH 25.5.76)

The regime's policy of removing the local African population of the operational areas into "protected" and "consolidated" villages is also being extended into the south-east of Rhodesia. About 2,000 people, divided between 420 families, were told at the beginning of May that they had until 2 June to move

into three consolidated villages set up 40 km away from their homes at the Chikore Mission near Chipinga on the eastern border. Chikore Mission School was among those to lose numbers of students in an exodus across the Mozambique border in the summer of 1975, to join the guerilla camps. Further plans to move more Africans into protected villages were announced by the Minister of Internal Affairs on 15 June. (RH 4.5.76; BBC 5.5.76, 16.6.76)

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There is evidence that the armed forces are under increasing pressure. Official communiques from security force headquarters rarely if ever reveal details of incidents or precise locations, and there are continuing efforts to promote the image of "terrorists" as barely human killers. The corpses of guerillas killed have, for example, been displayed not only to African villagers as a form of intimidation, but also to white civilians. On 12 May, the body of a young guerilla hit in the neck was laid out in the yard of Beitbridge Police Station, to be seen by "many Beitbridge residents, including children and tourists". The regime's Secretary for Internal Affairs recently told a passing-out parade of police recruits that whereas "normal criminals" were still entitled to the protection of the rule of law, "the terrorist, because of his conduct, may be killed on sight". (RH 14/15.5.76)

Official spokesmen, at a press briefing on 3 June, identified the three "operational areas" — "Hurricane", in the north-east, where guerillas were continuing to build up support and form cells among the local population; "Thrasher", adjoining the eastern border around Chipinga, where guerillas appeared to be harassing Europeans to abandon their homes and farms; and "Repulse" in the south-east, where the strategy was one of attacks on road and rail links. Guerilla attacks have occurred in places well outside the official operational areas, for example near West Nicholson, 130 km south east of Bulawayo, and across the Botswana and Zambian borders, while in the east and south-east in particular, the strategy appears to be to harass white economic activity as much as possible. Tea estates in the Eastern Highlands, for example, have had their African labour supply virtually cut off by a campaign of land-mining and bushburning along the roads connecting the estates with nearby Tribal Trust Land. On the night of 13 June, the transport workshop of a tea estate was attacked, and buildings and vehicles destroyed. (RH 4.6.76; GN 3.6.76; BBC 18.6.76)

Specific targets selected by the guerillas include regime-appointed chiefs and African councils set up as part of an official "provincialization" policy. A security force communique issued on 21 May reported that Acting Chief Chimoyo of the Mtoko district east of Salisbury had been killed by guerillas, while on 8 June it was learnt that Chief Mabika, one of 10 chiefs in the Rhodesian Senate, had been abducted from his home district of Bikita in the south-east. Chief Mabika was known as a staunch opponent of the armed struggle. Special precautions have since been introduced by the regime to protect chiefs, particularly those in the Senate and the four recently appointed

to Ministerial posts. White civilian targets may also not be entirely random. It was subsequently learnt that the white farmer Gideon Beeking, who was abducted across the Mozambique border from his farm near Cashel on 18 May, had been convicted in 1971 of murdering one of his labourers. He had been sentenced to 3½ years imprisonment, 9 months of which had been suspended. (RDM 22.5.76; 10.6.76; GN 9.6.76)

Attacks on the regime's policy of forced population removal are another seemingly new development. On 7 June, two recently established consolidated villages near

Nembire Keep north of Mount Darwin were attacked by guerillas and a large number of huts burnt to the ground. Plans had just been started to convert the villages into "semi-protected" camps by fencing them in, and also training a local militia. (RH 11.6.76)

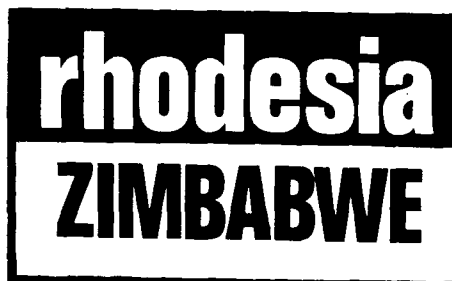
A detailed legal study of the background to Rhodesia's current crisis, *Racial Discrimination and Repression in Southern Rhodesia*, has recently been published by the Catholic Institute for International Relations, London, and the International Commission of Jurists. Obtainable from CIIR, 1 Cambridge Terrace, London NW1 4JL; price £1.30 inc. p & p.



*If you're seven years old and you've just put in a hard day's work in the family lands you're still liable to be searched for dangerous weapons when you return to your protected village in Rhodesia's north east.*

# "SUMMARY JUSTICE"

## EMERGENCY COURTS CREATED



The rapid breakdown of standards of law in white Rhodesia has been dramatically illustrated in recent weeks through the setting up of special "mobile courts" in the operational areas to try offences under the Law and Order (Maintenance) Act. The Emergency Powers (Criminal Trials) Regulations 1976 provide for impromptu trials to be convened in which the right to legal defence has been virtually extinguished and the rules of procedure reveal some drastic departures from accepted legal conventions.

The purpose of the special courts, as set out by Ian Smith at a press conference announcing the new regulations on 30 April, is to clear a backlog of "terrorist cases" while placing a new propaganda weapon in the hands of the security forces. "We believe it is important", he said, "that justice should be seen to be done, particularly in the areas where the crimes are committed". It is clear that the trials of captured guerrillas, in particular, and those accused of assisting them, are to be made much greater use of as a warning to local residents. (RH 1.5.76)

Under the Regulations, a special court sitting may be convened by its president at any place and time of his own choosing, and may try an accused person regardless of where the offence with which he is charged is alleged to have been committed. This inherent unpredictability clearly raises grave problems as far as arrangements for a defence counsel are concerned, quite apart from the impediments to a fair trial built into the rules of court procedure. The first sitting of a special court to be reported in the press opened in Umtali Magistrate's Court in the last week in May and since then, sittings are known to have been held in Inyanga, Chiredzi and Salisbury (see p.5).

The special courts are empowered to impose the same range of punishments as the General Division of the High Court, including the death penalty. Under Section 3 of the Regulations they may try any offence under Part III of the Law and Order (Maintenance) Act (which is by no means confined to offences connected with guerrilla activity), plus any offences "connected directly or indirectly with the furtherance of the aims and objects of terrorism". There is no further definition of this vague category.

In the space of a week at the end of May, eight people are known to have been sentenced to death by special courts. Although provision is made for appeals against conviction and sentence "the execution of any sentence of imprisonment or a fine shall not", under Section 12, "be suspended by the noting of an appeal".

Sittings may be open to the public but, as in existing court proceedings, may be held entirely in camera for security reasons at the request of the prosecution.

Each special court is to consist of a President appointed by the Minister of Justice, Law and Order in consultation with the Chief Justice, and either two or three other members selected by the president from a panel of persons appointed by the Minister for the purpose. The president need have no further legal qualifications than those required to practise as a magistrate, advocate or attorney despite the fact that the courts have powers of life or death. The other members need have no formal qualifications at all. So far, Mr Justice Beck, Mr Justice Baker and Mr Justice Smith are reported to have served as Presidents at special court sittings.

The Rhodesian public has been assured that "standards of justice are going to be maintained" in the special courts. Under Section 7, the accused is entitled to be represented by an advocate or attorney of his own choice. However this right can be overruled by the President if in his opinion getting a defence counsel to the court would result in "undue delay." There is no definition of "undue delay", an omission made all the more serious by the powers available to the President to convene hearings at short notice and in remote areas subject to strict security.

The rules of court procedure are also highly unorthodox. Under Section 7, the President may authorise any deviation from normal practice if "exceptional circumstances" — undefined — exist or if he is satisfied that such a move "will not result in a substantial miscarriage of justice". By implication, minor miscarriages may be permitted. It would appear from the Regulations that an accused may be called before the court having had little advance warning of the charges against him or time in which to prepare a defence. Under Section 7, he

shall merely "*at the commencement of his trial*", be provided with a written charge containing sufficient information to inform him of the allegation made against him and to enable him to plead thereto" (emphasis added).

Before the case for the prosecution is presented, an accused who has pleaded not guilty shall be invited "to make a statement outlining the material facts on which he relies for his defence." If the accused opts to do so, but fails to mention any fact considered relevant, the court may use this as corroborating and hence incriminating evidence. The provision appears to give free rein to the court to pressurise the accused to reveal his defence in its entirety at the outset of the hearing.

Once the prosecution case has been put, the accused is obliged to give his own evidence first, losing his traditional right to decide the order of defence witnesses. The right to silence has also been eliminated, in that even if the accused elects not to give evidence, he can be questioned by the prosecution and the court. If he refuses to answer any question, the court may draw an adverse inference and treat his refusal as corroborating evidence. It would appear that he can be forced to answer any question which may incriminate him even if it is irrelevant to the charge under consideration, or indeed if it incriminates some other person.

Also prejudicial to the accused is the provision that if he fails, before coming to court, to volunteer information relevant to his defence to the police on being questioned, charged or merely informed that he *might* be prosecuted for a particular offence, the President may draw an adverse inference. This obligation to reveal information to the police before the full details of charges are known puts any suspect in an impossible position: whatever he does under interrogation is liable to convict him later.

In striking contrast to the reaction to the new Indemnity and Compensation Act in the autumn of 1975, scarcely a word of protest has been raised in Rhodesia at the introduction of these new measures. (*Emergency Powers (Criminal Trials) Regulations, 1976, Rhodesia Government Notice No. 333 of 1976*)

## DRASTIC PENALTIES FOR CATTLE-RUSTLERS

A mandatory prison sentence of at least nine years for horse and cattle theft took effect in Rhodesia on 3 April 1976, with the enactment of the new Stock Theft Amendment Bill. In the past, the penalty for this offence consisted of a fine of up to R\$1,000, 2 years imprisonment, or a whipping of up to 10 strokes, on a first conviction. Subsequent offenders could be imprisoned for up to 4 years.

The severity of this new measure — and the introduction of yet another mandatory injunction on the Rhodesian judiciary — has been prompted by what Hilary Squires, the new Minister of Justice, Law and Order, has described as "a rising incidence of stock theft which can only be called dramatic". It is estimated that in 1975, between 3,000 and 4,000 head of cattle were stolen, killed or maimed throughout the country. Cattle-rustling has become particularly prevalent in those areas — the north-east and along the border with Mozambique — where the vast majority of the African village population has been removed from their homes into protected and consolidated villages. Both African and European farmers have suffered at the hands of stock thieves. Africans in the operational areas, however, run the additional risk of having their cattle confiscated by the authorities as a punishment for allegedly assisting guerillas, or to pay for food supplies once they are interned "behind the wire". The crime of stock theft, and the punishments proposed, are both symptomatic of a highly disturbed and increasingly tense security situation.

The new nine year mandatory sentence, whose introduction is largely the result of concerted pressure from the white farming lobby in the Rhodesian Front, was acknowledged by the Minister to be "very severe", "a large slice out of anyone's life even to the most insensitive tribal peasant". Even so, there were calls from a number of Rhodesian Front MPs for yet more swingeing penalties, notably an additional mandatory whipping clause. Several senator Chiefs were also reported to have welcomed the new provisions. Chief Dakamela, arguing that flogging should be made part of the penalty for the related offence of illegally branding cattle, suggested that "if the penalty is a jail sentence or fine, they just go to jail to get fat".

In addition to drastically increasing the penalties, the Stock Theft Amendment Act confers special jurisdiction upon magistrates to empower them to impose the minimum sentences. The three most senior categories of magistrates are being empowered to impose fines of up to R\$5,000 or prison terms of up to 10 years; for ordinary magistrates the limits

are a R\$2,000 fine or a 4 year prison term, but with extra powers to impose mandatory sentences where these are specified in the Act.

Although the new Act has aroused considerable controversy, it has already been used to impose a number of heavy prison sentences. Jonah Munjero and a man called Samuel, for example, were each sentenced to 24 years' imprisonment on conviction on 20 counts of stock theft by Mrewa Circuit Court. The two men conducted their own defence. The first magistrate to find himself obliged to impose a nine year minimum sentence, Mr Terry O'Neill-Fitzsimons of Gwelo, described it as "wholly inappropriate." He had found three Featherstone tribesmen, all first offenders, guilty of stealing a heifer. The animal, according to the prosecution, bore no identification marks and had not been claimed by anyone up to the time of the trial. Mr. O'Neill-Fitzsimons, passing sentence in Enkel-doon Magistrates' Court, pointed out that the offence had been committed three days after the introduction of the Act. Had it been earlier, he said, the court would probably have imposed a prison sentence of some nine months.

At least two magistrates are known to have resigned in protest at the provisions of the Stock Theft Amendment Act, and representations have been made to the Minister of Justice, Law and Order by the Law Society of Rhodesia. A number of High Court Judges are also known to be opposed to the Act. Such criticism as has been voiced, however, is concerned more with the loss of judicial discretion implied by a mandatory minimum sentence, than the severity of the sentences as such. (*Rhodesia Parliamentary Debates, House of Assembly*, 19.2.76, 24.2.76; *RFG* 6.1.76; *RH* 3/4.3.76, 3/10/16.4.76, 13/28.5.76)

## NEW POLITICAL TRIALS

Reports in the Rhodesian press of political trials under the Law and Order (Maintenance) Act have become few and far between over the last two months. Those cases that are covered often appear to have been selected as much for their propaganda value as for their legal implications. Virtually the only sentences reported during April, for example, were passed upon five men convicted of failing to report the presence of guerillas, at a public trial at Ruda police station in the Inyanga district, close to the Mozambique border. More than 100 kraalheads, schoolmasters and businessmen gathered at the station to witness the senior magistrate, Mr Clive Morkel, pass judgement. SHUPAYI PIAS (41), a school headmaster was sentenced to 10 years' im-

prisonment; two kraalheads, TAWORA CHITIZA DZIRUNI (68) and TIMOTHY DZIMWASHE (58), to 8 years each; and two tribesmen, SHATIRWA MAWAKA (44) and SEBASTEN DZIRUNI (45), to 7 years each. In a speech clearly directed at his audience, Mr Morkel said it was only the fact that the five men had been frightened that had saved them from prosecution in the High Court with the consequent risk of the death penalty being imposed. They were leaders in their communities and should have set an example. He exhorted civilians to "make a stand against terrorism and you will defeat it". "As long as people show no courage and continue to be intimidated, they will live in terror." Mr Morkel's speech is in striking contrast to some other recent trials in which a relatively sympathetic attitude has been displayed by the bench towards civilians caught up by events in the operational areas. (*RH* 10.4.76; *BBC* 10.4.76; *BBC* 13.4.76)

## OTHER CONVICTIONS

### 3 May: Salisbury High Court

PONIAS SHAVA, a 19-year-old guerilla from the Concession area, was sentenced to death on conviction of the murders of an Acting Chief in the Chiweshe TTL, and a white farmer near Umvukwes. Both were alleged to have died from gunshot wounds during attacks by guerilla groups of which Shava was a member, in April and June 1975. During the hearing a "trial-within-a-trial" took place when the defence counsel challenged the admissibility of statements and indications made to the police by the accused. An African police detail, the defence alleged, had told Shava that he was a public enemy and that if he did not tell the truth "they were quite entitled to shoot him or, in any event, to have him hanged." Shava had also been beaten up by members of the security forces. (*RH* 27.4.76, 4.5.76)

### 21 May: Salisbury High Court

MICHAEL CHISAWIRA (19) and SHADRECK SHATIRWAYI (19) were each sentenced to 9 years' imprisonment, and an unnamed 18-year-old youth to 8 years, for attempting to go for guerilla training in Mozambique. They had been convicted in a lower court and sent to the High Court for sentencing. (*RH* 22.5.76)

### 16 June: Salisbury High Court

ISAAK GWAZE, a guerilla who lost a leg after being badly wounded in a battle with security forces, was sentenced to death on conviction of planting landmines and being in possession of weapons of war. (*BBC* 18.6.76)

## SPECIAL COURTS

Since the end of May, most trial reports have been of hearings in the special courts set up under the Emergency Powers (Criminal Trials) Regulations 1976 to deal with guerilla offences. (see above, p. 3)

On 26 May at a special court session held at Umtali Magistrates Court MASHAMA SIBILISIOS (37), the chairman of the Mtoko South branch of the ANC, was sentenced to death by Mr Justice Beck, seated with two assessors, on conviction of recruiting 45 people for guerilla training in Mozambique.

The same special court session also sentenced a 30-year-old guerilla, STEVEN CHAPUNGU, to death for carrying arms of war between January and March 1976. Chapungu was alleged to have entered Rhodesia in the company of 65 other guerillas, who had then split up into different sections. The judge said that the escalation of guerilla activity in the area made the deterrent aspect of the sentence "terribly important." (RH 27.5.76; BBC 28.5.76)

The special court was then moved on to Inyanga, where, at a session on 28 May six unnamed guerillas were sentenced to death on conviction of possessing arms of war in the Salwunyama TTL in northern Inyanga district, during the period 16 to 30 April 1976. (RH 29.5.76; RDM 29.5.76)

At special court hearings at Chiredzi in the first week of June, 10 men were reported to have received prison sentences for failing to report the presence of guerillas to the authorities. One of these was a senior chief and a member of the Council of Chiefs, CHIEF NESHURO MOSES SHOKO (50). He was sentenced to 5 years' imprisonment with 4½ years conditionally suspended for 3 years. AMOND TARUSARIRA (40), PHILIMON GWAYENDA (57), both kraalheads, and ZEVGARI MEGARI (54) an acting chief, were each sentenced to 5 years with 4 years conditionally suspended for 3 years. The other sentences were: KAZAMULA (50) and HLENGANI (45) - 5 years each, with 2 years conditionally suspended for 3 years; PAHL-ELA VIVINYA - 7 years; MUZONDIWA JOHANE CHIDARA - 6 years. Two unnamed juveniles, aged about 18, were sentenced to 6 cuts each with a light cane and 2 years imprisonment conditionally suspended for 3 years. Another man, EDSON SITHOLE MAUMBE, received a 10 year sentence on conviction of recruiting for guerilla training. (RH 3.6.76, 5.6.76; RDM 5.6.76)

In Salisbury, where the special court had its first sitting on 10 June, LAZERUS GAHADZIKWA (20) was sentenced to death on conviction of carrying arms of war in the Mtoko area in September 1975. He had been wounded and captured by security forces during an engagement with guerillas. (RH 11.6.76; BBC 14.6.76)

## APPEALS

An appeal by KENNETH NYAKUDYA (19) against a death sentence imposed in February 1976 on conviction of possessing arms of war

was dismissed by the Appeal Court Salisbury in mid-May. Appeals by KUMBUKAYI PATRICK (18) and GOOD KANOKUNDA (22) sentenced to death for the same offence, were postponed pending police investigation of their claims to have been abducted by guerillas. (see FOCUS No.3 p.10; RH 19.5.76)

On 5 June it was reported that an appeal against conviction and sentence by BEN GIBSON, who was sentenced to death in February for allegedly identifying three men to guerillas as "sell-outs", had been dismissed. (See FOCUS No. 3 p.10; RH 5.6.76)

Appeals by two men whose names were withheld for security reasons were reported on 9 and 10 June to have been dismissed. The first had been given a 2 year conditionally suspended prison sentence for failing to report the presence of guerillas "as soon as reasonably practicable". The Chief Justice, Sir Hugh Beadle, dismissing his appeal against conviction, said that although he had reported to the authorities within the statutory time period of 72 hours, he could quite reasonably have made the report 7 or 8 hours earlier and on this ground the trial magistrate's decision must stand. The second appellant, a teacher, had been sentenced to 25 years imprisonment for encouraging his pupils to go for guerilla training. Orders were issued by the court prohibiting the publication of any names or locations, but press reports suggest that the appellant may have been JERVAS KARINDA (20), from Nyakuchene School, Mudzi TTL in north-eastern Rhodesia. (see FOCUS No.2 p.11; RH 9/10.6.76)

## CONSTANT POLICE SURVEILLANCE FOR ANC

Official harassment of both wings of the African National Council has been stepped up in recent weeks, with the arrest of large numbers of ANC members and the announcement of a ban on the issue of donation receipt cards. According to ANC spokesmen, at least 200 supporters of Bishop Muzorewa were arrested during the months of May and April, most of them provincial and district level officials. They were reported to be held without charge at a detention camp near Gwelo. A number of provincial, district and branch officials of the Nkomo wing are also known to have been detained (RH 14.5.76; T 14.5.76)

Specific incidents include:-

- \* Three officials of the Muzorewa ANC, MOTON MALIANGA, national chairman, DR EDWARD CHITATE, national secretary for education, and CLAUDIO ZHUWARARA, deputy secretary for youth, who were each fined R\$40 or 40 days imprisonment, in Sinoia Magistrate's Court on 26 April. They were convicted of addressing an illegal public gathering under Section 7 of the Law and Order (Maintenance) Act. 241 people had attended the meeting in St. Peter's Church Hall, Sinoia, 41 more than the official permitted maximum. Eleven other Muzorewa ANC officials who attended the meeting and one convicted of convening an unlawful public gathering were each fined R\$30 or 30 days imprisonment. (RH 27.4.76, see FOCUS No.4, p.6)

- \* An adviser to Joshua Nkomo, FINDO MPOFU, who was detained by Bulawayo police on 7 May, on the eve of his departure with Mr Nkomo on a tour of a number of African and European countries.

- \* Two officials of the Nkomo wing of the ANC, GEORGE MARANKE, youth secretary, and WILLY SHAMINI, in charge of transport, who were arrested in Salisbury on 14 May, allegedly in connection with recent disturbances in the city's African townships. They were released the same day. (BBC 17.6.76; RH 15/18.5.76)

- \* ARNOLD SAWANA, who was sentenced to 8 years imprisonment on conviction of using threatening words against "a class of persons" at the opening of a new office for the Muzorewa ANC at Sakubva African Township near Umtali. Four years of the sentence were conditionally suspended by the Appeal Court, Salisbury. (RH 9.6.76)

On 21 May, "in the interests of public safety", the regime imposed a ban on the issue of receipt cards for donations by both wings of the ANC. The receipt cards were introduced by the ANC in 1972 to get around a ban on membership cards on the grounds that they led to "intimidation". It is now an offence to be found in possession of an ANC receipt card and at least one person has already been prosecuted for failing to immediately destroy a card or hand it in to a police station. STELLA MPONDA was fined R\$25, or 30 days imprisonment, by Harari Magistrate's Court ten days after the ban was imposed, for being in possession of a receipt card from the Nkomo ANC. She said that she had intended to destroy the cards on her husband's instructions, but had forgotten to do so. (RH 22.5.76, 1.6.76)

## MISSIONARIES EXPELLED

An appeal by Jack and Ida Grant against an order issued in February declaring them to be prohibited immigrants in Rhodesia, has been finally turned down by the High Court. The Grants, who have lived in Rhodesia for many years as missionaries, finally left the country on 22 May, 5 days before an ultimatum issued against them by the Smith regime was due to expire. The Grants were told that they had lost their domicile in Rhodesia after filling in an immigration form while on a visit to America in 1975.

On 20 May a blind Norwegian missionary, Rev. Kare Eriksson, and his wife Asta, were refused entry into Rhodesia when they arrived at Salisbury airport after a year's absence in Norway. Rev. Eriksson first came to Rhodesia in the 1940's, when he served in the Tambara Mission near Cashel Valley. He later moved to the Epworth Mission of the American United Methodist Church outside Salisbury, and served as administrative assistant to Bishop Muzorewa for 7 years. No reason was given by the regime for the decision to ban the Erikssons, and they flew out of the country on the same aircraft in which they had arrived. (RH 21.5.76 see FOCUS No.3, p.8)



# DEATH SENTENCES FOR SWAPO LEADERS

namibia

On 12 May 1976, AARON MUCHIMBA (31), SWAPO's National Organising Secretary, and HENDRICK SHIKONGO (31), a SWAPO member, were sentenced to death at the close of a three-month trial in Swakopmund Supreme Court. RAUNA NAMBINGA, a nurse in her early twenties from Engela Hospital in Ovamboland, was sentenced to 7 years' imprisonment, and ANNA NGAIHONDIWA, also a nurse, to 5 years. NAIMI NOMBOWO, (18) was acquitted while the sixth accused ANDREAS NANGOLO (56), a shop-keeper, was discharged on 27 April. The court's decision to impose the death penalty for the first time ever under the South African Terrorism Act, and against Namibians, marks the culmination of a countrywide security clampdown in which more than 200 SWAPO members are estimated to have been arrested and detained.

The four found guilty were all convicted under the main charge that they had "endangered the maintenance of law and order" in Namibia by taking part in "terrorist activities" and by providing aid and assistance to people "whose intent was the violent overthrow of the SWA Administration." (WA 12.5.76. *For details of the specific charges against the accused and an account of the trial proceedings, see FOCUS No.2, p.2, No.4 pp.3-4*)

The court's determination to discredit SWAPO as a "terrorist" organisation, thereby implicating the defendants through their association with the movement, was made abundantly clear in the closing stages of the trial. Although in only one case, that of Henrik Shikongo, did the charges against the accused relate specifically to the assassination of Chief Filemon Elifas, the ostensible cause of the trial, the prosecution maintained in summing up that it was "obvious" that SWAPO has been responsible for his death. The accused "were members of SWAPO and were therefore familiar with the operations of the organisation." (WA 29.4.76)

After judgement had been declared but before sentence was passed Mr Chris Jansen, for the State, obtained permission to call two witnesses to give evidence of "terrorist activities" in Ovamboland and the country as a whole. Colonel Willem Schoon of the Security Police at Oshakati in Ovamboland, an officer who has figured prominently

in descriptions of torture provided by witnesses in the trial, presented the court with a dossier of 59 acts of "terrorism" alleged to have taken place in Ovamboland over the period July 1975 to May 1976 and including attacks on South African Defence Force units, abductions, murders of sub-headmen, tribal police and civilians, landmine explosions, robbery and the destruction of property. Schoon maintained that "SWAPO terrorists" were without exception responsible for all 59 incidents, and stated that he and his staff had evidence "to prove that SWAPO is guilty." He did not elaborate. (WA 14.5.76)

The second witness, Colonel Carel Coetzee of the Brixton Robbery and Murder Squad in Johannesburg, had been seconded to Namibia to direct the police investigations of the murder of 4 white civilians at the farms Kalkhügel and Okatjiho in December 1975 and February 1976. He told the court that all the murders had been committed by "two terrorists trained abroad", one of whom was now in police custody while the other was still at large. The connection with SWAPO or the trial, if any, was not made clear by press reports. (WA 12.5.76 and see p. 7 for story of Kalkhügel and Okatjiho murders)

Despite the fact that all except three of these alleged incidents had taken place several weeks or months after the accused had been arrested and taken into custody by the police, they were taken into account by Justice Strydom, who expressed himself in very strong terms in passing sentence. He said that recent murders in Namibia had been committed by "SWAPO terrorists trained abroad." The 59 incidents listed by Colonel Schoon "had not been the responsibility of strangers, but of trained citizens of South West Africa, acting as terrorists under the Swapo banner." The accused, the Judge went on, had shown no remorse when the list was read out in court. Although Muchimba and Shikongo had no previous convictions, "their ideology — good or bad — had led to acts of terrorism that could not be allowed to continue." "The evil of terrorism must be torn out by the roots, and law and order maintained... terrorists had no right of existence." Muchimba and Shikongo were guilty by association and the court had no cause why the supreme

penalty should not be imposed. (WA 13.5.76)

Leaving the dock, Aaron Muchimba and Hendrik Shikongo gave the Black Power salute. Fifteen minutes later, leave to appeal against the convictions of the four accused and the sentences of three of them (the exception being Anna Ngaihondjwa, who had received the minimum punishment of 5 years' imprisonment under the Terrorism Act) was refused. Justice Strydom, turning down the Defence Counsel's application, said that there was no prospect that another court might come to a different conclusion. (WA 13.5.76)

Since sentence was passed, further evidence has come to light of gross irregularity in the conduct of the trial, quite apart from the issue of the court's illegal status in the light of international law. Mr Patrick MacEntee, Senior Counsel of the Irish Bar, who attended the trial as an observer for the International Commission of Jurists, has described it as "an oppressive and highly unsatisfactory judicial process", and the sentences as "harsh in the extreme." He regarded the trial as one in which the prosecution evidence was selective and incomplete and conducted primarily "with a view to establishing the guilt of SWAPO rather than that of individual accused persons." "The vast majority of the African witnesses called by the prosecution in this case had been arrested and detained for lengthy periods and were still detained when they gave evidence. Their detention, their total uncertainty about their future liberty, torture and the fear of torture must render the probative value of their evidence suspect." (WA 11.6.76; T 11.6.76)

In addition to the overwhelming evidence of the use of torture by the police, the South African Security Police are now believed to have been heavily involved in mustering evidence and informers for the prosecution. On 2 June, an application was filed in the Windhoek Supreme Court by the legal firm of Lorentz and Bone for a special entry to be made on the record of the Swakopmund Terrorism trial regarding certain "irregular and illegal departures from the rules... which the law requires for a fair trial," and which had affected the outcome. Lorentz and Bone had acted as instructing attorneys for the

defence throughout the hearing. On 2 June and the following day, a series of sworn affidavits from the firm's partners and employees was presented to the Supreme Court, to the effect that Mr Jacobus Smit, an attorney and a partner in Lorentz and Bone, and Ms E.J. Ellis, the firm's switchboard operator, had provided a constant stream of information to the Windhoek Security Police over a period of several months since the trial began. Among documents photostatted by Ms. Ellis and handed to a Captain Nel was a statement by David Meroro, SWAPO's chairman, which had been transmitted from London in code, a telex communication from a firm of attorneys in Zambia, and a sworn statement from Hendrik Shikongo, since sentenced to death. Mr Smit was also alleged to have been in touch at frequent intervals with Nel and other officers of the Security Police, to keep them up to date with developments in the build-up of the defence case. Mr Colin du Preez, another partner in the firm, told the court in a sworn affidavit that during the course of the trial he had been told by the investigating officer Lt. Dippenaar that the Security Police knew everything that Lorentz and Bone had on their files. Other employees of the firm testified to being approached by members of the Security Police with requests for confidential information. Mr Smit and Ms Ellis were also alleged to have passed on information regarding

evidence obtained in Ovamboland by Mr David Soggott, a Johannesburg advocate, of irregularities and intimidation in the course of the January 1975 homeland elections. (WA 2/3/4.6.76; RDM 2/3.6.76; GN 3.6.76)

Once the leaks were discovered, Mr Smit's partnership in Lorentz and Bone was dissolved while Ms Ellis was dismissed. Smit was reported as saying that the information involved was such that "any good citizen of South West African would have conveyed it to the authorities." Ms Ellis also told a colleague that she was not acting as an informer "for herself but for her country and because of her hatred of the Blacks." (WA 3.6.76; RDM 29.5.76)

Following an initial hearing on 2 June, the defence's application for a special entry was postponed to 16 June. It was still proceeding several days later, following strenuous denials by both the Security Police and Mr Smit and Ms Ellis, that the leaks had occurred. The defence team had meanwhile been strengthened by the arrival of Mr I A Maisels, QC, from Johannesburg. Also on 2 June, application had been made to the Appellate Division of Bloemfontein Supreme Court for leave to appeal against the sentences and convictions handed down in Swakopmund. A ruling on the application was deferred until the Windhoek Supreme Court Judge, Mr Justice Hart, had ruled for or against the special entry application. (WA 1/4/18.6.76)



*Azel Johannes, who spent five months in solitary confinement in 1974, and now imprisoned for refusing to testify in the Swakopmund Terrorism Act trial. Johannes SWAPO Regional Secretary, together with Victor Nkandi, also imprisoned, petitioned for bail pending leave to appeal. The application was postponed to 2 July. (WA 14/17.6.76, and see FOCUS No.4 pp.3-4)*

**LATE NEWS:** Mr Justice Hart, in a matter he described as 'unique in South African legal history', granted the defence application for a special entry to be made on the record of the trial in which two SWAPO leaders were sentenced to death. The judge ruled that Mrs Ellis had handed over documents relating to the trial to a Captain Nel of the Windhoek security police, and described Nel as an "evasive and unimpressive witness." He also found that Mr Jacobus Smit, a former partner in the firm of attorneys which had acted for the defence, had been a security police informer. (GN 26.6.76)

## NEW TERRORISM ACT TRIAL

Nine people appeared in Windhoek Magistrate's Court on 21 May on charges under the Terrorism Act relating to the murders of 4 whites and the death of a black police detective sergeant over a 4 month period. A tenth person was charged in his absence. No evidence was led at the brief court sitting and the accused, 9 men and one woman, were not required to plead. They were all remanded in custody until 25 June, after which they are due to appear at a summary trial in the Supreme Court, probably in Swakopmund.

The accused are:— FILEMON NANGOLA (25); SACHARIA NASHANDI (no details); RISTO NAKANYALA (34); ALBEUS HENRICH (23); MARIUS ISAK (24); JOHANNES AMUTENGA (46); KAREL NAMPALA (26); SOLOMON MBANGO (21); GABRIEL WILLEM (20); and RAGEL SHIFOTOLA, a 34-year-old woman.

The ten are alleged by the State to have been directly or indirectly involved in the "Kalkhügel" and "Okatjiho" murders in December 1975 and February 1976, and in the killing of Detect-

ive Sergeant Cedekias Okamb at a police shoot-out in Katutura on the night of 19 April 1976.

On 21 December 1975, a 39-year-old white woman, Shirley Louw, and her son Bertus, 12, were shot dead by two unidentified assailants at their farm, Kalkhügel, near Grootfontein in north eastern Namibia. Two months later, on 16 February 1976, a white farmer, Gerd Walther and his wife Elke were killed at Okatjiho, a farm 17 miles from Okahandja on the road to Swakopmund. Fingerprint evidence was subsequently used by the police to establish that the armed men alleged to be responsible were the same in each case. On 19 April the two men, by this time identified as Filemon Nangola and Kanisius Heneleshi, a 22-year-old Ovambo, were tracked down to a small house in Katutura township outside Windhoek, belonging to Ragel Shifotola. The four month police investigation had been a full-scale affair, headed by Police Chief Brigadier H.V. Verster, with the assistance of Colonel Carel Coetzee of the Johannesburg Murder and Robbery Squad and a num-

ber of other top South African detectives.

In the course of a police ambush and shoot-out, Filemon Nangola was wounded and captured, and Detective Okamb was shot dead. Ragel Shifotola, whose husband was reported to have left Namibia for Tanzania some time previously, was arrested and was expected to be charged with "aiding and abetting the terrorists". Kanisius Heneleshi, however, managed to escape and was still at large in mid-June despite a massive police manhunt. At a press conference on 20 April, Brig. Verster maintained that although the Kalkhügel and Okatjiho murders had been "senseless, without motive and pointless", the two men were "trained infiltrators" and it was expected that they would be found to be "Swapo-orientated".

The details of the charges against the remaining 8 accused are not known and it is not clear how they came to be arrested. (WA 20/22.4.76; 21/24.5.76; RDM 19/22.5.75, 8.6.76)

**NAMIBIA contd. on back page**

## south africa

# CHILDREN SHOT DEAD IN SOWETO

176 DEAD, 1,139 INJURED

### HOW IT HAPPENED

Wednesday 16 June  
(approximate times)

8-9 a.m. School student demonstrators estimated to number 30,000, many of them under 14 years old, marched from school to school in Soweto protesting at the use of Afrikaans.

9.30 a.m. Crowd of about 10,000 school students gathered outside Orlando West Junior Secondary School, singing "morena boloka sechaba". Police contingent arrived and threw tear gas canisters into the crowd. This failed to disperse the children who retaliated with stones. Police opened fire without warning; several children shot dead, others injured. The crowd then stoned and charged the police, forcing them to retreat to Orlando police station.

10 a.m. Crowd, re-inforced by students marching in from other parts of Soweto, began to set up roadblocks, attack police vehicles and white-driven cars. Several whites injured, one West Rand Administration Board (WRAB) official killed.

10.30-12.30. Police in defensive position in Orlando called for reinforcements. Students erected barricade across road facing police station but beyond bullet-range, and roadblocks in other areas. Police unable to patrol township in normal vehicles.

1.30-2p.m. Army helicopters dropped tear gas over Orlando West. Several vehicles burnt. Police riot squad arrived from Johannesburg.

2.30 p.m. Police convoy moved off from Orlando police station towards high school only to find crowd already dispersed and moving about Soweto, stoning and burning vehicles. Police still unable to patrol streets. Helicopters went to rescue two white WRAB officials trapped in youth centre, one of whom was dead on arrival at hospital.

3 p.m. Police anti-terrorist force in camouflage uniform and armed with sub-machine guns arrived in Soweto. WRAB buildings at Dube and Jabulani set on fire.

3-4 p.m. More police reinforcements arrived. Tear gas used against crowds in Dube and Jabulani.

4-5 p.m. Fires reported in White City and several other areas.



5-8 p.m. About 20 buildings, mainly WRAB offices and including the Urban Council building, set on fire. More police arrived. As dark fell looting and general disorder became more widespread; police admitted not knowing what was going on. 9.30 p.m. 14 'Hippo' armoured personnel carriers arrived; police at last able to move around. Some arrests made. (RDM 17.6.76)

### Thursday 17 June

8 a.m. Reconnaissance flights by helicopters. School children reported to be threatening schools in Diepkloof, Jabulani and Orlando.

8.30 a.m. Police armed with rifles and sub-machine guns deployed in various areas.

8.45 a.m. WRAB offices at Zola threatened; police sent in in 'Hippo'.



8.50 a.m. WRAB offices at Klipspruit attacked. Clinic and offices at Orlando and Mapetla threatened.

9.15 a.m. SABC-TV crew's car attacked and set on fire; all equipment burnt. Crew rescued by passing carload of Africans.

9.22 a.m. Shooting heard in Orlando.

9.30 a.m. Baragwanath Hospital attacked.

10 a.m. Cars on Potchefstroom road attacked; those belonging to whites or companies burnt.

10.45 a.m. African policeman found dead by his van.

11 a.m. Police open fire on children in Rockville; girl aged five and boy aged 14 killed.

11-12. WRAB offices at Meadowlands and Diepkloof set on fire.

11.50 a.m. Three boys hit by police gunfire at primary school in Meadowlands

12.30. Boy shot and injured in Orlando East.

2.00 p.m. Putco bus set on fire.

3.00 p.m. Shooting in Diepkloof; at least one dead. More tear gas dropped from helicopters. Police deployed in 'Hippos'.

5.00 p.m. Police reinforcements from training centre arrived.

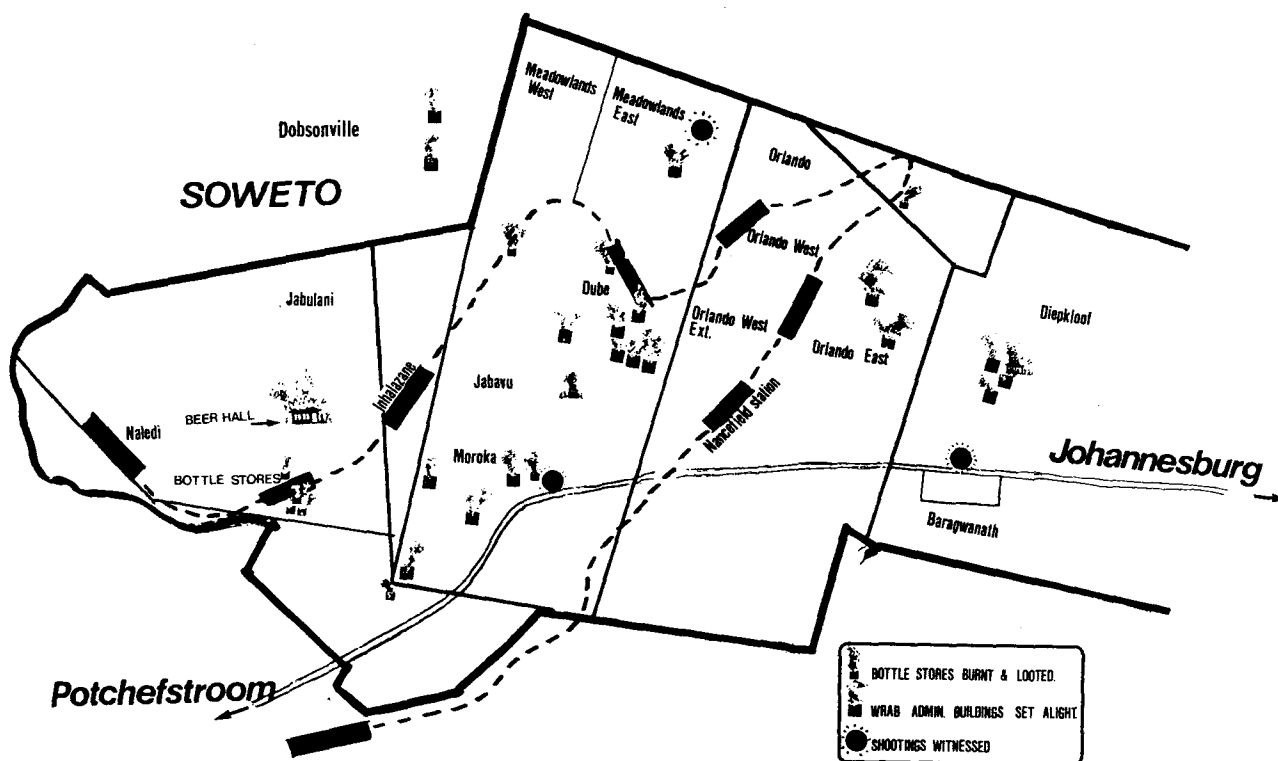
5.15 p.m. Barclays Bank in Dube reported under attack. Three more people reported killed. (RDM 18.6.76)

During these first two days' disturbances, the chief targets were police vehicles, WRAB township offices and other buildings, bottle stores (also under WRAB jurisdiction) and cars driven or owned by whites. Over 20 WRAB offices were burnt out and 10 more wrecked. In the process records relating to Soweto residents such as rent payments and resi-

dence permits were lost, indicative, as was pointed out by the president of the Black Sash, of "Black rejection of the whole pass law system." Altogether eight WRAB vehicles were burnt as well as over 20 police vehicles.

Township buses owned by Putco were also attacked and burnt, reflecting black resentment at the cost and conditions of enforced journeys between Soweto and places of work. Fare increases were recently announced by Putco.

In the first two days 23 people (2 white) were reported to have died, and 220 to have been injured (60 by bullets) but since many areas of Soweto could not be reached by reporters and all normal communications were broken this may have been an underestimate. (RDM 17/18.6.76)



## TROUBLE SPREADS

Immediately in the wake of the Soweto disturbances of 16 and 17 June, trouble spread to several black townships and educational establishments in both the urban areas and the Bantustans.

These events occurred just as FOCUS was going to press, and a full report will be included in the next issue. A provisional list of areas affected is as follows:

Wednesday 16

Soweto

Thursday 17

Soweto

Kagiso (Krugersdorp)

Tembisa

Friday 18

Alexandra

Tembisa

Vosloorus

Natalspruit

Munsieville

Mohlakeng

Boksburg

University of the North (Pietersburg)

University of Zululand (Empangeni)

Nyanga (Cape Town)

Sunday 20

Hebron (BophuthaTswana)

Evaton

Monday 21

Mabopane

Mamelodi

Atteridgeville

Duduza

Kwa Thema

Wattsville

Witsieshoek (Basotho Qua Qua)

Reef

Pretoria

East Rand

Elim (Lebowa)

Sibasa (Venda)

Tuesday 22

Ga Rankuwa (BophuthaTswana)

By 26 June the estimated total of those killed was 176, with 1,139 injured and at least 1,298 arrested (RDM 26.6.76)

## POSTERS CARRIED BY SCHOOL CHILDREN

AWAY WITH AFRIKAANS

WE DON'T WANT AFRIKAANS

AFRIKAANS IS TERRORISM

IF WE MUST DO AFRIKAANS -  
VORSTER MUST DO ZULU

BEWARE: AFRIKAANS IS THE MOST  
DANGEROUS DRUG FOR OUR FUTURE

## THE EXPLOSIVE ISSUE

The school students' demonstration which was fired on by the police was the latest and largest manifestation of protest against the compulsory use of Afrikaans in African secondary schools — protest which had been building up over several weeks.

African children in primary school are taught in their mother tongue — Tswana, Zulu etc — but at the secondary level must change to instruction half in English half in Afrikaans — both effectively foreign languages. This obstructs learning and in addition Afrikaans is hated as the language of apartheid and oppression. When this issue is added to the resentments already felt by Africans over the lack of school places for their children, the high cost of their education (free for whites) and the inferior nature of 'Bantu Education' in general, it is hardly surprising that it should prove explosive.

Earlier this year the Department of Bantu Education announced its intention to enforce science and history teaching in Afrikaans in Soweto schools.

Coincidentally the re-organisation of the primary/secondary transfer meant that younger children would be subjected to the language problem, and would also face more than usually acute overcrowding.

In February several black school board members elected by the parents were dismissed because they opposed compulsory Afrikaans. In April three Soweto headmasters were sacked, apparently for the same reason. Pupils began boycotting classes and holding meetings.

On 17 May students at Orlando West Junior Secondary went on strike and attacked the principal's office in protest against being taught in Afrikaans. Students from three other schools — about 1600 pupils — came out in sympathy. On 24 May staff arriving at Pimville school found Afrikaans text books piled on the floor and slogans on every door.

Many protests and representations to the authorities were made by those involved in African education in Soweto, who warned that the hostility aroused by Afrikaans might lead to serious trouble in schools. Their requests that the policy be abandoned or modified were met with refusals. Two days before the shooting Leonard Mosala of the Urban Bantu Council warned of the possibility of 'another Sharpeville' and the Council asked for a meeting with the Minister.

By the beginning of June six schools were on strike and violent incidents began to occur. Police were stoned at Pimville school and at Nahledí High School where a police car was also set on fire. Exams to be written in Afrikaans were boycotted. By 16 June, when the first major demonstration was called, over 2,000 students were out. (*Drum* 8.3.76; *RDM* 10/11/25.2.76, 8/9.4.76, 18/21/25/27/28.5.76, 2/5/10/11/17/18.6.76.)

## TERRORISM ACT IN 1975

Mrs H. Suzman: How many persons were charged with offences under the Terrorism Act in 1975?

The Minister of Police: 38

Q: How many of them were (i) acquitted?

A: None.

Q: (ii) convicted of terrorism?

A: Four

Q: (iii) convicted of lesser offences?

A: One. The cases against three persons were withdrawn.

Q: How many are still on trial or awaiting trial?

A: 30

Q: For what period was each of the persons charged detained before being charged?

A: 1 for 3 days	1 for 99 days
1 for 5 days	3 for 102 days
1 for 15 days	1 for 103 days
1 for 30 days	1 for 109 days
1 for 41 days	4 for 111 days
2 for 43 days	1 for 119 days
1 for 48 days	3 for 127 days
1 for 57 days	1 for 169 days

(*Debates* 9.2.76)

## BANNINGS

Banning orders issued in 1975:	16
withdrawn :	4
expired :	52
renewed on expiry :	4

Orders in force 31.12.75 : 128

(29 of these had been renewed, 14 once and 15 twice.)

(*Debates* 6.2.76)

Johnny Ramrock, who spent most of 1975 in detention before being released on bail in November, having the charges against him withdrawn in March and being immediately re-detained (see *FOCUS* No.2 p.9, No.3 p.4, No.4 p.10) was finally released on 20 May and immediately served with a banning and house arrest order. Under the terms of his order Ramrock must report to the police daily. (*RDM* 22/26.5.76)

## SEGREGATED SHOWS UNDER ATTACK

A crowd of about 100 teenagers protested against the segregated performances of a Coloured pop singer Richard Jon Smith in Kimberley on 24 May.

Placards held by demonstrators read "Support RJS and you support apartheid." In common with all other entertainers in South Africa, Smith's appearances in public theatres are either "White Shows" or "Non-White Shows" (i.e. for black audiences).

Police attacked the demonstration using dogs, batons and teargas. Several young people were taken to hospital with injuries and dog bites. (*RDM* 25/26.5.76)

In Johannesburg posters advertising a new black 'tribal' musical called "Mma Thari" and aimed at white audiences were torn down and painted black, and sabotage was thought to have caused six blackouts during the first two performances on 11 and 12 June. (*RDM* 14.6.76)

## POLITICAL PRISONERS

Act under which convicted	Persons serving sentence as at 1 January 1976			
	African	Racial Group Asian	Coloured	White
General Law Amdt Act (Section 21) 1962	154	9	3	5
Suppression of Communism	4	—	—	1
Unlawful Organisations	2	—	—	—
Terrorism Act	64	4	3	3
Riotous Assemblies	1	—	—	—

(*Debates* 18.2.76)

# DETENTIONS

The number of people who have been or are in detention in South Africa continues to rise. In April when the Christian Institute published its report *Detention and Detente* (30.4.76) the number of detainees was estimated to be 77. Since then the number of those charged or released has been more than balanced by new detainees, and by mid-June those held totalled over 90.

Using the Christian Institute's lists and subsequent press information the following people are believed to be currently in police detention (see facing page).

## TRANSKEI DETENTIONS

On 10 June the South African Security Police in Umtata detained eleven people, and the next day raided the offices of the Transkei Council of Churches, holding the secretary Mrs Nomonde Plaatjie for questioning for five hours.

Those detained included the editor of an outspoken Xhosa newspaper, Mr V Mrwetyana, trainee Transkei diplomat Mr E. Mtshontshi, Mr S Mpendulo and Mr P Khumalo. At the time of the arrests both Chief Kaiser Matanzima and Chief Justice George Matanzima were in Europe.

Later the SA Minister of Police said the SA Security Police had only assisted in the detentions: "It was an operation by the Transkei police. They have asked us to help them and we have been able to give them some assistance." The detainees were being held under Transkei Proclamation R 400 not the Terrorism Act as originally stated. (*ST* 13.6.76; *RDM* 14/15.6.76)

Currently a total of 26 people are banished in terms of R 400 in the Transkei. (*RDM* 13.5.76)

## LIBRARIANS HELD

Joel Sibusiso Ndebele, a librarian employed at the Swaziland campus of the University of Lesotho Botswana and Swaziland, was detained by South African security police at the border on 4 May and held under the Terrorism Act.

Dean Ndaba, librarian at the University of Zululand and said to have known Mr Ndebele, was also in detention at the end of May. (*ST* 23.5.76)

For a full account of black education in South Africa read *FORBIDDEN PASTURES Education under Apartheid*, by Freda Troup published by IDAF April 1976 price 60p.

# DETAINEES

approx. date of detention	Name	Where detained	Further details (if known)
17. 9.75	KHUBEKA Themba	KwaMashu	NAYO (possibly released
27. 9.75	MBETHE Mphakama	Johannesburg	NAYO (at end of case
28. 9.75	MOSEGOMI Nathaniel	Johannesburg	NAYO (see p. )
1.10.75	LENGANE -	Johannesburg	Soweto school student
7.10.75	KGOSANA Elizabeth K.	Kimberley/Kuruman	later taken to J.V. Square
16.10.75	CEKISANI Mokie	Port Elizabeth	BPC
16.10.75	NKONDO Winston	Johannesburg	
16.10.75	ZANI Thamsanqua	Durban	
19.10.75	KHUTSWANE Kingdom	Durban	
3.11.75	MAFUNA Ethel	Johannesburg	School teacher
30.11.75	KHUBEKA Hamilton	Natal	
31.11.75	KHUBEKA Siphos	Pietermaritzburg	20. 3.76 ? held in connection with ANC case (see p. )
Nov/Dec '75	MAKHOB Pius	Natal	
Nov/Dec '75	MSIMANG Maziwi	Natal	
3.12.75	MSIBI Stanley	Pietermaritzburg	? ANC
3.12.75	KUNENE France	pietermaritzburg	? ANC
4.12.75	BHENGU Moses	Natal	
4.12.75	MDLALA N.	Pietermaritzburg	
4.12.75	NGUBANE Mfana	Pietermaritzburg	
5.12.75	MAPHANGA Russell	Durban	
5.12.75	NXASANE Harold	Durban	See FOCUS No.3, p.1.
5.12.75	MDINGI Leonard	Natal	banned person
7.12.75	MKHIZE David	Natal	
10.12.75	MAISTRY Jeevantha	Natal	
16.12.75	MAPHUMULO Shadrac	Durban	
19.12.75	ZULU Joshua	Durban	? ANC ex-political prisoner
7. 1.76	GWALA Harriet	Pietermaritzburg	
20. 1.76	MABIDA Miss S.	Natal	
10. 2.76	WILLIAMS Bernard	Johannesburg	Student
20. 2.76	FAAS David	East London	SASM ex Healdtown
20. 2.76	MDA Koko	East London	SASM ex Healdtown
20. 2.76	MNYANDA Nhlanhla	East London	SASM ex Healdtown
20. 2.76	MTI Mandisa	East London	SASM ex Thembalabantu
20. 2.76	QUPE Don	East London	SASM called as witness
20. 2.76	SINXO Nkuleleko	East London	SASM (see p. )
before March	KGAME Robert Abel	Johannesburg	seen at court 1 March
9. 3.76	MADYO -	East London	
9. 3.76	TSHIKILA -	East London	
9. 3.76	NDWANDWA -	East London	
10. 3.76	NGOBENI Rev. Simon	White River, Tvl.	
15. 3.76	GODDARD Chris	Johannesburg	Redetained (see FOCUS 4)
15. 3.76	HAMILTON Weizman	Johannesburg	Redetained (see FOCUS 4)
20. 3.76	? BALENI Vuyo	Port Elizabeth	called as witness (see p. )
23. 3.76	MDINGI Edna	Umlazi	wife of Leonard (see above)
24. 3.76	MXENGE G. Mlungifi	Natal	Mdluli family lawyer (see FOCUS No.4, p.2)
30. 3.76	MALEKA Esther	Johannesburg	
30. 3.76	THATE David	Johannesburg	
unknown	DHUKI Martin	Johannesburg	
unknown	NKOMBASA Gilbert	Johannesburg	
2. 4.76	SEREMANE Joseph	Zeerust/Mafeking	
23. 4.76	NKOSI Stanley	Johannesburg	articled clerk ex. Univ. Zululand
23. 4.76	SIMELANE Stanley	Johannesburg	
23. 4.76	MOSOEU Joseph L.	Johannesburg	
23. 4.76	NEKU Sabelo	Johannesburg	Soweto student
end April	KEKE Zolile Hamilton	E. Cape	ex Robben Is (PAC)
end April	DYANTYI Mtolose Boyce	E. Cape	ex Robben Is (PAC)
end April	KHETELO Thamsanqa Wilson	E. Cape	ex Robben Is (PAC)
end April	NYOBO Thembekile Temporal	E. Cape	ex Robben Is (PAC)
end April	NYOBO Malusi Solomon	E. Cape	ex Robben Is (PAC)
5. 5.76	Four unnamed Africans	Johannesburg	Soweto residents
5. 5.76	NGOBEZI D. Christopher	Newcastle	
5. 5.76	NKOSI Sibusiso	Newcastle	
10. 5.76	SHABALALA Percy	Newcastle	Madadeni school student
16. 5.76	MFETI Pindile	Johannesburg	Industrial Aid Society
17. 5.76	NALA June Rose	Durban	N.U. Textile Workers
19. 5.76	TLAKULA Stanley	Turfloop	University staff (statistics)
19. 5.76	JALI Vernon	Turfloop	Univ. staff (pharmacy)
19. 5.76	MABUDFHASI Joyce	Turfloop	Univ. staff (library asst.)
19. 5.76	MDLEBA Moses	Turfloop	Univ. staff (lab technician)
19. 5.76	MASHAMBA George	Turfloop	Univ. staff (philosophy)
19. 5.76	KAMBULE Mathews	Turfloop	Univ. staff (maths)
19. 5.76	MOGUDI -	Turfloop	University student
19. 5.76	TSHUKUDU -	Turfloop	University student
27. 5.76	NDUDULA Moses	Dimbaza	Ex Robben Is (PAC)
27. 5.76	GANDA Shadrack	Zwelitsha	
4. 6.76	PITYANA Mrs Dimza	Port Elizabeth	wife of Barney Pityana
4. 6.76	VARMA Krishna	Port Elizabeth	
10. 6.76	MRWETYANA Vuyani	Umtata	Ed. Isisazo, Xhosa paper
10. 6.76	MTSHONTSHI Ezra	Umtata	trainee diplomat
10. 6.76	MPENDULO S.	Umtata	employee Transkei Meat Board
10. 6.76	KHUMALO P.	Umtata	insurance clerk
10. 6.76	seven others	Umtata	
14. 6.76	SISULU Lindiwe	Johannesburg	daughter of Walter Sisulu

# POLITICAL TRIALS

On 13 May, the Minister of Justice, defending proposed new security legislation (see p. 14) said eight political trials were currently in progress and 17 more were scheduled — a total of 25 cases. "In each case", he added, "there is a host of young black people engaged in subversive activities." Justifying administrative rather than judicial action against such people, the Minister said the work involved in bringing the persons concerned to court was too great. (*Debates* 13.5.76)

## NEW CASES

### PAC MEN DETAINED

At the end of April five former members of the Pan-Africanist Congress, who had served sentences on Robben Island, were detained by security police in the Eastern Cape.

Their names were given as:

Zolile Mamilton Keke,  
Mtolose Boyce Dyanti  
Thamsanqa Wilson Khetelo  
Thembekile Temporal Nyobo  
Malusi Solomon Nyobo (*RDM* 1.5.76)

On 12 May a short report appeared in the press to the effect that the previous day five men (no names given) had appeared in court in East London charged under the Terrorism Act with undergoing illegal military training. They were not asked to plead and the case was remanded to 30 June at Grahamstown Supreme Court. It is thought that these five are the same as those given above. (*RDM* 12.5.76)

### ANC NETWORK BROKEN

On 14 May ten men, described as members of the ANC, appeared in Pietermaritzburg Supreme Court charged under the Terrorism Act.

The main charges alleged acts endangering law and order committed between November 1973 and March 1976 in Natal and Swaziland, relating to communication with ANC exiles in Swaziland and the establishment of an 'escape route' for ANC recruits to leave the country. Some 43 people were said to have been recruited for military training abroad.

The accused are:

Themba Harry Gwala (55)  
William Fano Khanyile (40)  
Anthony Ndoda Xaba (42)

John Vusimuzi Nene (32)  
Vuzimuzi Truman Magubane (32)  
Matthews Mokholeka Meyiwa (51)  
Azaria Ndebele (40)  
Zakhele Elphas Mdlalose (51)  
Joseph Ntuliswe Nduli (35)  
Cleopas Melayibone Ndhlovu (42)

Of these, Gwala, Xaba, Nene, Magubane, Meyiwe and Mdlalose are known to have been detained last December (see *FOCUS* No.2, p. 9 for these and other details).

Nduli and Ndhlovu were both living in Swaziland until they were arrested in suspicious circumstances which suggested an abduction by SA police on Swaziland territory. Nduli faces further charges relating to military training in the early 60s and entry into Rhodesia as a guerilla in 1967. Ndhlovu is charge separately with receiving military training in 1964.

The indictment also named Joseph Mdluli, who died in police custody on 19 March (see *FOCUS* No.4, p.2 and box) as a co-conspirator, who was said to have instigated recruitment.

The accused were remanded for trial on 12 July. (*World* 15.5.76)

The case first hit the headlines following Mdluli's death when Ndhlovu and Nduli disappeared from Swaziland. According to press investigations, a well-established network enabling people to leave South Africa to join the ANC in exile was operating between Natal and Swaziland, with Joseph Mdluli, who worked as a hawker, one of the chief agents. Apparently as a result of the deportation last November of several Africans from the Hamarsdale area of Natal the police discovered the network and were able to introduce some six police agents into it as potential recruits.

These men are thought to have been taken to Swaziland and met by ANC officials. Four days later Mdluli was detained in Durban. On the same day the agents handed themselves over to the Swaziland police explaining who they were. On 20 March the SA Security Police arrived in Swaziland and managed to arrest Nduli and Ndhlovu as they were driving near the South African border. Nothing more was heard of them until they appeared in court three weeks later. (*CT*.24.4.76; *ST*.25.4.76)

Following the events of March the Swaziland Police detained several ANC members on their own account. These included Mr Thabo Mbeki, son of Govan Mbeki, the ANC leader serving a life sentence on Robben Island. Later, a house in Swaziland used by Mbeki was raided by Swazi police and two hand grenades, some explosives and false documents

were allegedly found, according to the SA Minister of Police who cited the incident as justification for increased security legislation in South Africa. Swaziland's policy is to allow political refugees residence so long as they are not politically active.

In June the Swaziland government accused South Africa of 'flagrant violation' of its territory and demanded that Ndhlovu and Nduli be returned to Swaziland. On 15 June Mr Kruger claimed that Nduli and Ndhlovu had been arrested on South African soil. (*CT*.24.4.76; *RDM* 9/11/16.6.76)

### NDUKWANA and FOUR OTHERS

Early in June five young men appeared at Grahamstown Supreme Court charged under the Terrorism Act with taking part in terrorist activities and planning or trying to leave the country to undergo military training.

The five accused are:

Sotomela Ndukwana (19)  
Vuyo Jack (20)  
Phumelele Sizani (22)  
Ngcola Hempe (19)  
Goodwin Mda (19) (*RDM* 5.6.76)

All were described as former high school pupils. Evidence against them was given by Vuyo Baleni of Port Elizabeth (who admitted to having 'raved' and trying to kill himself while in Fort Glamorgan prison East London earlier in the year and was later said to be 'in a psychotic state'), and by Don Qupe (who had earlier refused to give evidence but changed his mind after being sentenced to one month's imprisonment for his refusal). A third witness, Thembanani Phanzi, refused to give evidence and was sentenced to one month in jail. (*RDM* 5/10/11.6.76)

Of those involved, Ndukwana, Jack and Phanzi were detained in Claremont, Durban, in October 1975. Don Qupe was picked up in East London on 20 February 1976 and Vuyo Baleni in Port Elizabeth on 20 March 1976 (*Christian Institute report "Detention and Detente"* 30.4.76)

It is not known whether this case has any connection with the detentions of several high school students in the Eastern Cape (see *FOCUS* No.4, p.2) beyond that implied by the presence of Qupe (detained in East London on the same day as six others — not those on trial — said to have been involved with the high school students' movement, SASM, at various schools in the Eastern Cape). (*CI "Detention and Detente"*; *SANA Information Document No.7*)

## MDLULI: POLICE CHARGED

In an unprecedented move the SA Minister of Police Mr Kruger announced in Parliament on 11 June that four security police officers were to be charged with the manslaughter of Mr Joseph Mdluli, who died in police custody on 19 March (see *FOCUS* No.4, p.2) and was alleged to have been part of an ANC recruiting ring in Natal. (*GN* 12.6.76) No names were given.

This followed weeks of pressure both by and on behalf of Mdluli's widow in an attempt to make the police disclose how Mdluli died. In May the Minister of Police said that the cause of death was not suicide, but no date was fixed for a public inquest, despite many demands that the case be treated with urgency.

Early in May Mrs Lydia Mdluli instructed her lawyers to sue the Minister of Police and the Commissioner of Police for damages of R25,000 arising out of her husband's death, which she claimed was due to "unlawful act or acts of one or more members of the Security Branch police acting in the course and within the scope of their employment as members of the police force and thereby as servants of the state." (*Star* 1.5.76)

On 13 May at a meeting in London chaired by Canon L. John Collins, president of the International Defence & Aid Fund, the ANC released photos of Mdluli's body, apparently taken in the mortuary, showing extensive injury and bruising. The ANC claimed Mdluli had been tortured to death. The photos were taken by Durban undertaker Mr Harris Peters at Mrs Mdluli's request.

Towards the end of the month Mr Kruger replied to a question in parliament saying that 'no decision' had been taken on an inquest and the matter was still 'being considered.' A fortnight later the impending prosecution of the four policemen was announced. (*RDM* 26.5.76)

## ON GOING CASES

### MOLOKENG FREE: MASONDO and NHLAPO CONVICTED

The end of the trial of Joseph Molokeng and other young Africans accused of inciting some 44 people to undergo military training (see *FOCUS* 2 p.9, No.3 p.4, No.4 p.10) came on 21 May when the judge convicted two of the original seven of contravening the Suppression of Communism Act and sentenced them to the minimum term of 5 years' imprisonment. (*RDM* 22.5.76)

Patrick Maisela, one of the original accused, had already been remanded on separate charges (see *FOCUS* No.3, p.4), and following a series of prosecution witnesses whose 'evidence' had been produced under duress (see *FOCUS* No.4 p.10) the judge discharged three more: Bheki Langa (23) Benjamin Msenjane (25) and Miss Phumza Dyantyi (27) (see box). He also said the state had not proved the main charge under the Terrorism Act against any of the accused, but that there was a prima facie case under

the Suppression of Communism Act against the remaining four: Joseph Molokeng (34) Andrew Moletsane (23) Amos Masondo (22) and David Nhlapo (27) (*CT* 5.5.76)

Denying the charge, Molokeng said he had never spoken about communism at meetings of the Transvaal Youth Movement, nor of leaving the country. He had been interrogated for 30 hours without a break on his arrest. (*CT* 6.5.76)

Moletsane, also denying the charge, said while he had been a NAYO member and president of the Transvaal branch he had never discussed the formation of political cells or military training with Mr Vusi Sithole, a state witness. (*CT* 8.5.76)

Nhlapo admitted telling two friends he planned to go to Mozambique but claimed this was for the independence celebrations, not military training. He was prevented from doing so by his arrest. (*CT* 8.5.76)

Masondo claimed that his statement had been made on police instructions. He had been questioned mainly by Sgt. S.C. Smit at John Vorster Square on what he knew about the 'Azanian liberation movement'. His first statements were torn up as unsatisfactory. Then, he said, he was thrown on the floor, held down by a boot on his neck and threatened with more violence if he did not talk. Subsequently a number of things were written into a statement in his handwriting on Sgt. Smit's instructions. (*RDM* 7.6.76)

Summing up, defence counsel claimed that the case against Molokeng and Moletsane was "verging on the absurd" and that the police methods used to obtain statements rendered them worthless. The prosecutor countered with "It is acceptable to use devious methods to obtain necessary information" but Mr Justice Steyn, giving judgement, commented "I have found the investigational methods used in this case very suspect and I have kept this in mind throughout my judgement." He referred specifically to Capt. A.B. Cronwright and Sgt. Smit who interrogated witnesses and told them to write statements.

The judge then acquitted both Molokeng and Moletsane saying the state failed to prove the only unlawful act alleged against Molokeng, and that "if the case against Mr. Molokeng was thin, then the case against Mr. Moletsane is as fragile as tissue paper."

However, Masondo and Nhlapo were both found guilty, of inciting two people to undergo military training. Sentencing them the judge said, "In terms of the Act my hands have been tied by the legislature which has seen fit to lay down the minimum sentence of five years." (*RDM* 22.5.76)

## PHUMZA DYANTYI RE-ARRESTED

Immediately after being discharged from the Terrorism Act trial involving Joseph Molokeng and others Miss Phumza Dyantyi was re-detained and taken away by police for questioning in connection with another matter. She became the second person to be charged separately in this case, the first being Patrick Maisela (see *FOCUS* No.3 p.4).

On 17 May Miss Dyantyi appeared in Johannesburg Magistrates Court charged under the Customs and Excise Act apparently with importing subversive literature. Bail was refused. The case is due to be heard at Kimberley Magistrates Court. Miss Dyantyi has been in custody since July 1975. (*RDM* 5/18.5.76)

The case against Patrick Maisela, who was granted R1,000 bail, is due to open on 29 June. (*RDM* 9.4.76)

## BLACK CONSCIOUSNESS

The defence case in the long-running trial of the nine SASO/BPC members (see *FOCUS* No.2 pp.3-5, No.3 p.5, No.4 p.11) opened at the end of March with expert evidence from Dr Rick Turner, a Natal University political scientist who was banned in 1973, who stated that the SASO and BPC documents he had read claimed that means other than violence were needed to bring about change in South Africa. (*RDM* 31.3.76; 1/2.4.76)

This was the constant thread of the defence case. The second witness was Dr Manas Buthelezi, Secretary-General of the SA Lutheran Church, who said SASO had helped to bring about black solidarity and mutual aid. (*RDM* 3/6.4.76)

Steve Biko (36) SASO's first president, told the court of SASO's formation, and said their task was to "fight against defeatism, develop hope and build humanity". SASO objectives were one man one vote, in a plural society without discrimination. Of the BPC he said it operated within the law and was non-violent. Outlining its policy on education he said "the aim was to combat education based on a policy we suspect is intended to divide us...calculated to educate us for a certain society (which) does not train us for independent thinking but instead for a subservient role". Blacks were charged with terrorism, he added, but white terrorism in the form of baton charges, forced removals and starvation went unchallenged. (*RDM* 4-7.5.76)

On 12 April the first of the accused, Saths Cooper, began to give evidence. At the time of going to press the trial was still continuing. Most of the witnesses



took the opportunity to defend and expand the philosophy of Black Consciousness as well as specific actions alleged against them.

**Saths Cooper** (25) who faces six charges, said Black Consciousness was born of "genuine aspirations of the Black masses and gave positive expression to these aspirations". It aimed at gaining black majority support in order to bargain with whites from a position of strength, but decided not to seek confrontation with the state. He said there was no form of SASO 'supreme command' as had been alleged, and that SASO had not gone ahead with the Frelimo rally in Durban despite the ban: a large crowd of people had arrived anyway. Asked by the prosecutor if BPC had ever considered sending people abroad for military training, Cooper said BPC rejected all forms of violence. (RDM 13-15.4.76, 1.5.76)

Questioning Cooper, the judge commented "As I see it, the whole trial turns on whether BPC used Black Consciousness to prepare the masses for violence." (CI Report 30.4.76)

**Dr. Nchaube Aubrey Mokoape**, a doctor at Durban's King Edward Hospital at the time of his arrest, said Black Consciousness meant the 'humanisation' of black people. BPC aspired to democracy, to normalise the 'sick society' of South Africa, and to communalism, which involved the idea of sharing. Of the Sharpeville memorial rallies, he said they "were merely for the purpose of remembering historical events, remembering those who fought for freedom, and to show the white superstructure that we did not like this sort of thing." Questioned, he said blacks saw the SA Police as political enemies and the present government as an illegal regime. (RDM 8/12-14.5.76)

**Mosiua Patrick Lekota** (28) former SRC member at the University of the North and SASO organiser in Durban, said it was 'naive' to suggest that SASO urged blacks to hate whites. They struggled for psychological and physical liberation. (RDM 14.5.76)

**Pandelani Nefolovhodwe** (29) former SASO president, rejected the allegation that a speech made by him in 1974 had been anti-white. He had told the meeting that blacks must now take it on themselves to bring about change. SASO told people to hate racism and oppression, not whites, and did not seek to confront the state but "to make people perceive their existential problems" through the process of community projects. On the Bantustan policy he said "Buthelezi is a system boy and must defend it. He is being used to further the policy of his bosses." (RDM 19-21.5.76)

**Gilbert Sedibe** (25) former president of the University of the North SRC, said when he joined SASO in 1972 it "did not bring anything new to me such as telling me that the white man was an enemy, rapist or killer. SASO told me what I experienced daily." He denied that SASO had been responsible for some of the placards at the Turfloop Frelimo rally which read "Samora Machel is coming — Vorster must go" and "Drown them". (RDM 21.5.76, 2.6.76)

**Muntu Myeza**, former SASO president, told the court that only Harry Singh, a state witness and suspected police informer, had urged the holding of the Durban Frelimo rally despite the ban. Myeza had gone to the stadium to tell the crowd that the meeting had been banned and why; he accused newspapers of saying in advance that SASO would defy the ban, but this was not the case. He added that SASO was opposed to 'multi-national' sports contests and to the policy of forcibly uprooting and resettling blacks. (RDM 5/8-11.6.76)

## HEINEMANN ELECTRIC

Following the disturbances outside the Heinemann Electric factory in Germiston in March, when police baton-charged a peaceable crowd (*briefly reported in FOCUS No.4 p.12*) four young workers and two young union organisers were arrested and charged under the Riotous Assemblies and Bantu Labour Regulations Acts.

On 30 March four young workers were arrested outside the factory. They were: **Abram Mkhabela** (29) **Steve Maseko** (26) **Miriam Mohokare** (22) **Lillian Mashinini** (29)

When they appeared in court on 2 April bail was opposed by police Capt. J.H. Loods who claimed that on arrest three had been armed, with a knobkerrie, iron bar and hosepipe, and all four had been threatening other workers who wanted to return to work. Eight of those threatened would give evidence, he said.

Bail was refused but granted at a later hearing. On 1 June the state was ordered by Germiston Regional Court to give more particulars of the charges against the four, who were due to appear in court on 9 June. (RDM 25.5.76, 2.6.76)

The two union organisers, **Gavin Anderson** (24) and **Sipho Khubeka** (23) (arrested on 6 May) were charged under the Riotous Assemblies, Bantu Labour Regulations, Industrial Conciliation and Police Acts. Their defence lawyers applied for the charges to be dropped on the grounds that they were unclear, and when the trial opened on 9 June it was remanded until 16 June. (RDM 8/10.6.76)

## TEXTILE UNIONISTS

Four union organisers in Natal:

**June Rose Nala**, secretary of the National Union of Textile Workers (NUTW)

**John Copelyn**, secretary of the Textile Workers Industrial Union (TWIU)

**Christopher Albertyn**, organiser of TWIU **Thizi Khumala**, organiser of NUTW

were summoned to appear on 17 May under the Bantu Labour Regulations Act, charged with instigating and encouraging a strike of African textile workers at Natal Cotton and Woollen Mills in October 1975. 400 workers had stayed out for 10 days, demanding the removal of the personnel manager Mr **Cornelius Sternkamp**. (RDM 15.4.76; ST 2.5.76)

No further press reports were received of this case, but on the day the trial was due to open June Rose Nala was detained by the security police under the Terrorism Act.

# NEW SECURITY POWERS

In a major addition to existing repressive powers the South African parliament has passed a new law with far-reaching implications. Adopted before the recent troubles in Soweto, the measure appears to be designed — as an opposition MP pointed out — to give the government emergency powers without declaring a state of emergency. They are: the Internal Security Amendment Act, and the Parliamentary Internal Security Commission Act ('Piscom'). The former was initially called the Promotion of State Security Bill, but its name was changed in the Senate after critics had dubbed it the "SS" Bill. (The latter will be reported in the next issue of FOCUS)

## INTERNAL SECURITY AMENDMENT ACT

This law has the following new features:

(1) *Imprisonment by ministerial decree*  
The Act (section 4) allows the Minister of Justice to order the imprisonment without trial for a year of anybody whom he considers to be a threat to the security of the state. Pending the service of such an order upon the victim, any police officer can arrest the person concerned without warrant and keep him in custody for up to 7 days.

This clause replaces the "Sobukwe" clause which enabled the Minister to detain convicted political prisoners indefinitely after the completion of their sentence. This power was only invoked once — against Robert Sobukwe, who was held on Robben Island for 6 years after his sentence expired.

The new, wider clause introduces a procedure which completely by-passes the courts. It differs technically from the present powers of the Minister to detain persons indefinitely without trial under the Terrorism Act. In theory, at least, a detainee under the Terrorism Act can expect to be either charged, or called as a witness, or released. Under the new law, the prisoner will have no prospect of appearance in court, and will just have to serve the "sentence" imposed upon him by the Minister.

One of the advantages the authorities will derive from this procedure is that they will be able to constantly disrupt the activities of organisations which they are suspicious of, but which

they do not want to proscribe, or against whose members they have no evidence of the sort that could be presented in court. Also, the intimidatory effect of the law could be considerable.

The operation of this section, described by the Minister of Justice as a form of preventative detention, will be subject to review by a committee of three headed by a magistrate or judge. The committee must examine each case within two months and once every 6 months thereafter. The committee may each time make a recommendation to the Minister, but he is not obliged to give effect to it. Where the Minister rejects a recommendation for release he must report the fact to parliament within one month. The committee's work is secret and no court of law can pronounce on it or its recommendations. The Minister is not obliged to give the review committee the evidence upon which he acted. This review procedure was widely condemned as being ineffective and failing to protect the rights of the citizen vis-a-vis the executive.

## (2) Detention of witnesses in political trials

Section 6 grants the Minister power to detain witnesses in political trials if in his view there is any danger of intimidation or of their absconding. Anybody so detained may be held for up to 6 months, or until the end of the trial in which they are thought to be involved. No one, except a magistrate or an officer of the state, may visit a detainee without consent of the Attorney-General, and under conditions imposed by him.

Previously this power existed under the "180-day law" introduced in 1965 as an amendment to the Criminal Procedure Act No.56 of 1955. But it did not apply to cases under the Terrorism Act, which was passed in 1967. In recent years, most major political trials have been conducted under the latter act, and this allowed witnesses (in the rare instances where they were not already detained under the Terrorism Act) to remain at large, and sometimes to evade a court appearance. Commenting on this section, an opposition MP said "There might well be witnesses, in cases of this kind, who would wish for protection because those against whom they are required to give evidence may be ill-disposed towards them. We all know of the conditions in some of the townships in this regard at the present time." (*Debates 11.5.76*)

The capacity of the state to isolate potential witnesses from all outsiders, including legal advisers, may have an important bearing on the willingness of witnesses to give evidence. In recent political trials the prosecution has sometimes encountered difficulties when ac-

complice witnesses have refused to testify and/or called for legal representation on appearing in court (see *FOCUS No.4 p.10*).

## (3) "Endangering the security of the State" (sections 1, 2, 3, 4 and 8)

The "Suppression of Communism Act" of 1950 is renamed the "State Security Act". The powers of the Minister of Justice under the previous Act to ban or house arrest individuals and/or organisations and to prohibit publications are extended to a wider category of persons defined on the basis of "endangering the security of the State or maintenance of public order". As before, the Minister's opinion is decisive. No link with communism has to be asserted.

The Suppression of Communism Act, for 26 years the cornerstone of political repression in South Africa, has always been used to suppress opposition whatever its ideological complexion. The change in name and scope of the Act is being made now for political as well as legal reasons. It will enable the authorities to act with more freedom against those who are obviously opposed to the excesses of apartheid and sympathise with African aspirations. In particular, Christian and other radicals whose persecution under the old Act always provoked unfavourable comment can now be dealt with in a less provocative way.

Secondly, the new definition will facilitate the government's attack on the Black Consciousness movement. The prosecution in recent trials has frequently found difficulty in plausibly equating the poems, plays, speeches and pamphlets of activists in the Black Consciousness movement with the statutory definition of "terrorism" under the Terrorism Act, though some convictions of this sort have been secured. Almost equally difficult would be an attempt to equate Black Consciousness with the statutory definition of 'communism', wide though this is. But "endangering the security of the State" is so wide that it could be made to cover any ideology and any form of struggle.

The widening of the grounds upon which action may be taken against government opponents is possibly related to the creation of the new Security Commission "PISCOM" (see *next issue*).

## (4) Additional provisions

Section 10 amends the Public Safety Act of 1953 (which empowers the government to introduce a state of emergency so as to eliminate the previous limit on penalties (fine of R1,000 and imprisonment for up to 5 years) for offences under emergency regulation. There appears to be no limit on penalties now.

Section 6 gives the Attorney General the power to issue an order preventing the release on bail of anybody charged with an offence under the various security laws. (It is not clear whether this section only duplicates or extends the existing law in this regard). Although bail has long been hard to get in political trials, a strong plea for it can be made where the accused has already been in custody for a long time, and the charges are relatively minor (and especially if the accused has already been acquitted of more serious charges).

Sections 12, 13 and 14 make the Riotous Assemblies Act of 1956 applicable in Namibia, and this replaces previous legislation applying to that territory from 1930. Justifying this step the Minister of Justice Mr Kruger claimed that the current constitutional conference in Namibia had at its first meeting in September 1975 and subsequently called upon the authorities to maintain law and order. The previous law, he said, suffered from two deficiencies: magistrates could only exercise their power to ban gatherings with the approval of the Administrator, which meant in practice the Minister of Justice of the Republic — "In states of emergency this is entirely unpractical" — and these powers were confined to a particular district. These weaknesses have been eliminated by the extension to Namibia of the South African law. (*Debates 7.5.76*)

Introducing the bill Mr Kruger said "We are obliged to take note of and prepare for the dangers inherent in an unstable Africa where recent events have again shown how swiftly threatening situations can arise and recede... More men and more money will for the foreseeable future be tied up (on our borders). To keep our men there and to keep them well armed and provisioned, security at home and a stable economy become all the more necessary." (*Ibid.*)

Warning of the prospect of more subversion amongst students and workers, he claimed that the new powers were to be "put on ice for use in case of need," and that they were not aimed at or suitable for a full-scale emergency or large-scale internment. "They are intended for use in times when uncertainty on our borders may require more attention and thus make it no longer possible for us to afford the luxury of allowing a small number of internationally connected activists to bedevil the peace and order at home." (*Ibid.*) But Mrs Suzman MP pointed out that under Section 4 persons could be detained in any place defined as a prison — and this could be an internment camp. (*Debates 11.5.76*) The law was widely condemned by black opinion, liberal academics, amongst the churches, and by the Bar Councils of Johannesburg, Natal and the Cape.

# HALF NAMIBIA UNDER MARTIAL LAW

The entire northern portion of Namibia has now been sealed off by the South African regime and placed under martial law in the most drastic attempt to date to stem the rising tide of SWAPO guerilla activity. On 19 May, the three northern homelands of Ovamboland, Kavangoland and Caprivi, containing over 55% of the country's total population, were declared "security districts" and subjected to regulations calculated to compel local residents to co-operate with the security forces in hunting down guerillas and their supporters. The new measures entail a further massive reinforcement of South Africa's military presence in the country at a time when less than two months remain before the expiry of the UN Security Council's 31 August deadline for South Africa's withdrawal from Namibia.

The move came a few days after certain provisions of the Emergency Proclamation R17, which had been suspended at the time of its introduction to Ovamboland in 1972, were brought into operation. Under the regulations promulgated then and on 19 May, sweeping powers of search, seizure, arrest and interrogation, formerly vested only in the police in Ovamboland, have been extended to members of the Defence Force in all three "security districts." These come on top of the indemnity granted recently to Defence Force personnel and state employees under the terms of the South African Defence Act (see *FOCUS* No.3 pp.3-4):

- \* The Minister, or any person acting on his authority may, under the new provisions, order any particular area to be cleared of population, sealed off and systematically searched. Residents who are forcibly removed in this way are forbidden to return within a specified period. Schools, hospitals, shops and businesses can also be compelled to evacuate.
- \* The minister is also empowered to declare any area bordering on a "security district" a specifically prohibited area or no-man's-land in which all movement, other than by the security forces, is forbidden.
- \* The whole of the region has been placed under night curfew and no person, other than a government employee, is allowed to leave the homelands without a permit signed by a Native Commissioner.
- \* Non-residents are, likewise, required to obtain a permit to enter the homelands, "non-resident" being defined in such a way as to specifically include persons who left the country as refugees or to join SWAPO.
- \* All chiefs, headmen and other adults are now obliged to report the presence of any person known or suspected to be in the

homelands unlawfully, to a Native Commissioner or the South African Police. Failure to do so has been made a criminal offence. (This is similar to Section 51 of the Law and Order (Maintenance) Act in Rhodesia, laying down heavy penalties and even death for the offence of "failing to report").

- \* Any civilian, for example anyone suspected of withholding information about insurgents may be arrested without warrant and held incommunicado until such time as the authorities are "satisfied that he has answered all questions fully and truthfully", or in other words, indefinitely and without trial. Access to legal advice during this period is specifically forbidden unless official permission has been granted. Offenders tried and convicted are liable to a maximum fine of R600, imprisonment for up to 3 years, or both.
- \* Persons, sites, buildings and vehicles may all be searched without warrant and "evidence" seized.
- \* All firearms and ammunition were ordered to be handed in to the authorities within 48 hours of the gazetting of the new regulations.

The clampdown on political activity in force in Ovamboland since 1972 has likewise been extended to the other "security districts". Virtually all meetings are prohibited without prior consent in writing and any meeting may be dispersed by a Native Commissioner, an officer of the security forces, chief or headman. Even church services, funerals, sporting events, entertainments and concerts may be arbitrarily prohibited, and the only real exemptions are for meetings of the homeland administration and the judiciary. (Certain other provisions of security legislation in force in South Africa, notably the Riotous Assemblies Act, which provides for the banning of public meetings, have been recently extended to Namibia under the terms of South Africa's new State Security Act see p. 14)

Any individual may be forbidden to attend or address any meeting, while it is an offence to boycott any meeting organized by an official, chief or headman. Statements or acts "intended or likely to subvert or interfere "with the authority of the State, the SWA Administration or the tribal authorities are prohibited. (*RDM* 20/21.5.76; *WA* 19/20/26.5.76)

The new powers came on top of efforts to speed up the evacuation of a 1km deep strip of land - 18 metres of which is being totally denuded of vegetation - as a "free-fire" zone along the entire length of the northern Namibian border from the Kunene River through to the eastern tip of Caprivi. The creation of this no-man's land was begun in 1975, (see *FOCUS* No.2, p.1) and according to a recent statement by the SWA Com-



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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.

missioner-General, will affect at least 3,000 people in Ovamboland alone. Movement across the Namibian-Angolan border has been restricted to a single civilian checkpoint at Oshikango, with a further crossing point at Ruacana-Calueque reserved for the exclusive use of workers on the Ruacana Falls hydro-electric scheme. (*RDM* 7/19.5.76; *BBC* 20.5.76)

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