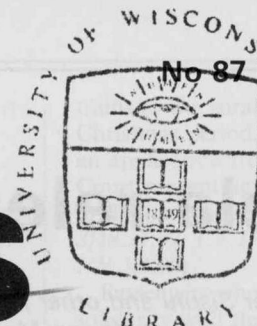




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Reserve

Action follows unity conference

Anti-apartheid alliance broadens

After backing the ANC's perspective on the question of ending apartheid through negotiations, the biggest and most representative gathering of anti-apartheid organisations in South Africa's history decided that the conditions for genuine negotiations did not yet exist. The conference, held in December last year, called for preparations for action on several fronts.

At the Conference for a Democratic Future on the weekend of 9-10 December over 4,600 delegates, representing more than 2,100 organisations with an estimated 15 million supporters, met to discuss a programme to intensify the struggle against apartheid and to bring greater unity to that struggle. The framework for the discussions was set by an agenda which had as its first issue 'the question of political power'. (CDF Resolutions; Tel 12.12.89; FM 15.12.89)

The conference adopted the Harare Declaration of the Organisation of African Unity (OAU), dating from August last year. The declaration, drawing strongly on the ANC's formulations, sets out guidelines for the process of genuine negotiations in South Africa. It makes clear that negotiations cannot occur without the necessary climate first being created by the lifting of all restrictions on political activity. It foresees negotiations between the regime and 'the liberation movement' to bring about a suspension of hostilities, followed by negotiations over the basis of a new constitution and a mechanism for drawing up the constitution. Negotiations would also cover the formation of an interim government to supervise the drawing up of the constitution and the transition to a democratic order. (CDF Resolutions)

Only a small minority of delegates, from black consciousness organisations, did not support the adoption of the Harare Declaration, saying they needed

to discuss the issue further with the organisations they represented. (Star 11.12.89)

Noting that the regime's 'strategic objective remains that of reshaping apartheid' rather than abolishing it, the conference declared that the basis and climate for genuine negotiations did not yet exist. It proceeded to discuss how organisations could act 'to galvanise every section of our society — black and white — into united action against apartheid'. (CDF Resolutions)

The programme covered every aspect of life under apartheid, noting the achievements of the continuing campaign of mass defiance and formulating calls for further campaigns and action.

A week after the CDF, the National Education Crisis Committee (NECC) held a national conference which called for a 'Back-to-School Campaign'. This was in line with the CDF's call to defy the authorities' decision to exclude tens of thousands of black pupils from schools. In January, after the release of the final examination results in African schools showed that more than half of those who wrote had been failed, a crisis 'education summit' was held in Soweto and an interim committee elected to launch the 'Back-to-School Campaign', and to link up with the NECC and other mass-based organisations. (Focus 82 p.5; S 18.12.89; Star 8/13.1.90)

The CDF also called for support for the trade union campaign against the restrictive Labour Relations Amendment Act (LRAA). In December, shortly

before the conference, the trade union national anti-LRAA campaign co-ordinating committee decided to continue and intensify the campaign against the act which had involved overtime bans, protest marches and a month-long consumer boycott during 1989 (see TRADE UNIONS). (NN 8.12.89)

The call for adequate housing and for affordable rents and service charges featured in a number of the CDF resolutions, reflecting growing activity by civic organisations in the climate created by the mass defiance campaign. Just before the conference, Transvaal civic organisations resolved to continue the rent boycott which had been in force in some areas since 1984, and to revive it in other areas. In January community organisations stepped up campaigns in the Eastern Cape against deteriorating conditions in townships, evictions and corrupt councillors. (WM 8.12.89; DD 10.1.90; NN 19.1.90)

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PRISONS

Mandela release

The release of Walter Sisulu and other ANC leaders last October encouraged expectations that Nelson Mandela would be released within months. Mandela received visits at Victor Verster prison from representatives of a large number and wide range of organisations and met with government officials including President de Klerk on 13 December. These developments fuelled speculation both over the timing of Mandela's release and his involvement in the broader political process.

Mandela met de Klerk at the presidential offices in Cape Town. Earlier he had met with the former President, P W Botha, last July. The Minister of Justice and other senior cabinet ministers have also visited Mandela over the past three years.

The meeting with de Klerk was attended by the Minister of Constitutional Development, Gerrit Viljoen, and the Minister of Justice, Kobie Coetsee. Coetsee said issues discussed had included 'ways and means of addressing current obstacles in the way of meaningful dialogue' and that similar talks were envisaged in the future. A representative of the Mass Democratic Movement (MDM) said Mandela had informed them in advance of the meeting with de Klerk. (*Focus* 84 p.7; *CT* 14.12.89; *FT* 18.12.89)

Since August 1987, the regime has emphasised a 'flexible' evaluation of a number of factors in assessing the early release of political prisoners. In Mandela's case the political consequences of his release have become the focus of the government's assessment.

In April President Botha, in a statement taken to indicate a shift in policy, said that Mandela could be released on the basis of a commitment to a 'peaceful settlement of South Africa's future'. This choice of words was interpreted by observers as avoiding the demand that he renounce the armed struggle, a condition which Botha had formerly insisted on. In December, President de Klerk spoke of his release as 'a question of time': at a meeting with the President of Cote d'Ivoire he said 'Mandela will be freed . . . as soon as possible'. (*Focus* 79 p.10; *Star* 18.4.89; *S* 5.12.89)

Mandela's meetings, with representatives of anti-apartheid organisations and with government officials have been widely interpreted as contributing to the development of conditions which could facilitate talks between Pretoria and the ANC.

Mandela has also had visits from leading representatives of the church, trade unions, the legal profession, the United Democratic Front (UDF) and the MDM, and has met the recently released Pan-Africanist Congress leader, Jafta Masemola amongst others.

At several meetings, including those with leaders of the UDF, the Congress

of South African Trade Unions (COSATU) and with Rev Frank Chikane, Mandela discussed recent government visits. Chikane said Mandela emphasised that he 'was not negotiating with the government' but was acting 'as a facilitator to create conditions conducive for meaningful negotiations'. Sidney Mufamadi, assistant general secretary of COSATU, said Mandela 'is not a go-between but is in a position to meet government officials and to convey their views to our movement'.

Govan Mbeki and Walter Sisulu met with Mandela before their discussions with exiled ANC leaders in Lusaka in January while in December he had talked by telephone with exiled leaders of the ANC, Alfred Nzo and Thabo Mbeki, during a visit they made to Zimbabwe. Ten members of the central executive committee of COSATU, including the president, Elijah Barayi and the general secretary, Jay Naidoo, visited Mandela in December and said he had told them he was satisfied that he could be freed in the present political climate. (*DN* 24.11.89; *Star* 14/20/28.12.89; *DD* 23.12.89)

Statements by other prominent anti-apartheid activists who visited Mandela emphasised that while he wanted to be released immediately, he viewed his freedom in relation to the release of other political prisoners. An official of COSATU, John Ernstzen, said Mandela referred to 'the release of all political prisoners and the cessation of all political hangings and treason trials'. In January Mandela told visitors from the National Association of Democratic Lawyers (NADEL) that he 'had negotiated for the recent release' of ANC leaders and was 'still negotiating for the release of other political prisoners', especially those serving life sentences. There are at least 15 people sentenced to life imprisonment for political activities. (*DD* 23.12.89; *BBC* 13.1.90)

In January, whilst announcing the UDF's decision to defy the emergency restrictions and to operate as a fully functioning organisation, Murphy Morobe, an official of the MDM, expressed the movement's 'full confidence and support for the various initiatives [Mandela] has been involved in.' The UDF was seeking approval for a visit to Mandela by 22 of its office-bearers and regional representatives. (*SS* 19.1.90)

Released prisoners launch campaign

On their early release from Middelburg Prison, Alice, in the Ciskei bantustan, two political prisoners recently committed themselves to campaigning for better prison conditions. Rev Makhenkhesi Arnold STOFLE (44), general secretary of the Border branch of the UDF, was freed unconditionally on 2 December with Sakhumzi SOMYO, who was gaoled for refusing to give evidence against him. At the trial Somyo's identity was withheld (*see Focus* 71 p.7).

Stofile was sentenced to 11 years on 25 May 1987 for allegedly supporting the ANC's armed struggle, while Somyo had a four-year sentence imposed two months earlier on 27 March 1987. The conduct of the trial was widely criticised but an appeal failed in November 1988. Stofile came to international prominence in 1984 when he visited New Zealand to campaign for South Africa's isolation from international sport. Three of his co-accused remain in prison: Mzwakhe Nelson NDLELA was sentenced to 15 years and Mveleli Gladwell GOBITHOLE and Linda Michael STOFLE to eight years. Another state witness gaoled for four years for refusing to testify, Pierre-Andre Albertini, a French national, was released in September 1987. (*Focus* 74 p.3; *CT* 30.11.89)

Thousands of residents went onto the streets of Alice to celebrate the men's freedom. Bantustan officials insisted that the releases were 'humanitarian' and 'a contribution towards a new dispensation in Southern Africa', but it was clear that they had come under pressure to release the men, most recently from a church delegation. Subsequently, Rev Bongani Finca said the Border Council of Churches thanked the bantustan leader for honouring his promise to the churches and urged him to release all political prisoners in the bantustan. (*DD* 30.11.89, 1/4.12.89)

Stofile and Somyo said they intended to 'harness international support' to rectify prison conditions which Stofile said were 'far from what human beings can expect'. The 500 inmates of Middelburg Prison endured unhealthy conditions and a poor diet, they said. They were deprived of study facilities and other privileges. He added that 'it was no use talking about recreational facilities, because there were none'. They described their cells as 'three-square metre dungeons' where prisoners 'slept on cement floors . . . just with mats and flea-infested blankets'. Stofile said regular complaints made 'every morning' had been ignored and no response had been given to a list of grievances presented to a Ciskei magistrate and a judge when they visited the prison.

Stofile said seven political prisoners were still held at Middelburg prison under maximum security. However, this excludes those sentenced for common law offences such as public violence, arson, and politically motivated murder. (*South* 7.12.89)

LABOUR

Striking railway workers killed

Violence against striking railway workers, over 30 of whom were killed during a 12-week strike, has focused attention on the use of police and strike-breakers in industrial disputes.

The three-year long struggle by the South African Railway and Harbour Workers Union (SARHWU) for union recognition and decent pay and working conditions was finally resolved at the end of January. South African Transport Services (SATS) agreed to recognise SARHWU and bargain with the union in areas where it obtained registration under industrial law. Following an earlier dispute in 1987 four SARHWU members were sentenced to death for the killing of four strike-breakers. (*Focus* 82 p.7; *BBC/GN* 27.1.90)

The most recent strike began in November when the SATS management refused to meet a committee of SARHWU representatives to discuss their grievances, on the grounds that SARHWU was not registered. The countrywide industrial action which followed resulted in some 23,000 dismissals out of a union estimate of 40,000 on strike. The total workforce is estimated to be 80,000. (*South* 9.11.89; *WM* 10.11.89; *Star* 3/4.1.90; *FM* 5/17.1.90; *Ind* 10.1.90)

The SARHWU National Negotiating Committee met SATS three times in November but SATS insisted that the wage claim and disciplinary procedures had been negotiated in April under the SATS Conditions of Services Act and therefore were not open for renewed debate until May 1990. (*WM* 10.11.89; *FM* 17.11.89; *SARHWU Report* 28.11.89)

SARHWU members have faced a

barrage of violent intimidation and attacks from strike-breakers and police who have, according to union reports, been assisting SATS management by complicity in actions against the strikers. At Mzimpholope on 6 November Labius CHIHAWA was shot by a SATS supervisor, Benjamin MAMAKOLO was shot by a SATS employee on 15 November on Jeppe station and the following day 17-year-old, Elizabeth RANKUWA, was shot when a ticket inspector opened fire on strike supporters on Johannesburg station. (*S* 6.11.89; *CT/SS/NN* 10.11.89; *WM* 17.11.89; *CT* 11.1.90)

Union offices have also been attacked. On 16 November two workers were shot and five arrested on charges of public violence inside SARHWU offices in Germiston when police raided the premises to break up a strike meeting. One man later died. On 14 December 300 men armed with sticks and knives attacked SARHWU offices in COSATU House in Empangeni near Durban.

At least four people were seriously wounded when police shot into a crowd of over three thousand strikers in Umlazi, Durban, and another 50 were injured when police opened fire on strikers at Salt River Station, Cape Town, on 12 December. Twelve people were reported injured and taken to Groote Schuur Hospital where they were placed under police guard. (*South* 9.11.89; *14.12.89*; *Star* 15.11.89; *CT* 15/22.11.89; *WM* 17.11.89, 15.12.89; *S Star* 14.1.90)

Following the notices of dismissal, many of the migrant workers housed in SATS hostels were given notice of eviction and hostels also came under attack from anti-union squads. Thousands of other migrant workers showed their support by boycotting

trains to the rural areas over the Christmas period. SARHWU later won an application from the Rand Supreme Court preventing further evictions unless SATS had obtained a court order. (*Star* 8/18.11.89; *CT* 17.11.89; *WM* 8/18.12.89; *NN* 5.1.90)

Passengers who tried to show solidarity with the strikers also came under attack. On 8 December on Braamfontein station armed 'vigilantes' dressed in SATS uniforms attacked township residents without tickets who were supporting the strike by refusing to pay fares. At least 15 people were seriously injured.

On 9 January several hundred union members arrived by train for a union report-back meeting in Germiston. They were attacked by assailants in SATS uniforms, at least four of whom were identified by the union as being police. The union said there were up to one thousand attackers, armed with machetes, knives, short spears, sticks and stones. According to witnesses, police fired teargas into train carriages, thereby forcing strikers onto the platform and preventing them from sheltering. Police denied they had stood by and allowed the massacre to continue, although they made no arrests during or after the attack. (*S/GN/Ind* 10.1.90)

This was not the last incident of police harassment of strikers — on 11 January police broke up a number of SARHWU meetings in the Pretoria area and arrested and charged a number of strikers. (*FT/CT* 11.1.90; *SS/NN* 12.1.90)

A basis for the settlement of the strike was agreed on 26 January between SARHWU, SATS and the Independent Mediation Services, who issued a statement that, 'All dismissed and striking workers will return to employment in the same grade, in the same job and at the same wage as applied to them at the commencement of the strike.' This was subject to applications being received by 6 February. (*BBC* 27.1.90)

MEDIA

Press harassed

Although President de Klerk said in November that regulations affecting the media emergency regulations might be lifted, harassment of journalists and restrictions on the press continued. (*CT* 30.11.89)

Action against the *New Nation* under the emergency censorship procedure showed the regime's continued readiness to use this even if less frequently than before. Moreover, the period was marked by the vigorous use of other methods of censorship: prosecutions of editors and owners of papers; harassment of editors under the Criminal Procedure Act and police intimidation of journalists.

On 2 November the *New Nation* was warned under the emergency regulations

about 32 items alleged to be 'subversive'. The paper was still under threat of closure in January but no further steps had been taken against it. (*NN* 3.11.89, 1.12.89; *CP* 3.12.89)

Court Cases

Between September and December last year two editors were charged, and a further six were placed under investigation in terms of the emergency regulations for publishing 'subversive statements'. A trial of the editor of *Vrye Weekblad* for reports allegedly undermining military conscription was postponed until February. Charges against *New Africa* in November arose from coverage of protests in June 1989. Papers under investigation were the *Cape Times*, *Star*, *Argus*, *Daily News*, *Sunday Tribune* and *Natal Mercury*. Other cases against the editors (or former editors) and journalists of *City Press*, *Weekly Mail* and *South* were withdrawn. (*Focus* 85 p.7; *Star* 29.9.89, 18.10.89, 22.11.89, 8.12.89; *Index on Censorship (IC)* 5.10.89,

14.12.89; *CP* 22.10.89)

In December the editors of the *Weekly Mail*, the *Sowetan* and the assistant editor of the *Star*, had charges under the Internal Security Act for quoting 'listed' persons withdrawn. Joe LATAKGOMO was charged in November in his former capacity as editor of the *Sowetan* for quoting Albie Sachs, a prominent ANC member. A case against the *New Nation* under this Act was postponed until February and in November *New Africa* was charged for quoting the ANC president Oliver Tambo. (*Star* 18.10.89; *BBC* 24.11.89; *CT* 8.12.89; *IC* 14.12.89)

In November *New Africa* was charged under the Prisons Act for publishing Nelson Mandela's photograph. A *Saamstaans* organiser was acquitted of the same charge in December. (*BBC* 24.11.89; *S Trib* 10.12.89)

The authorities used the Criminal Procedure Act to force journalists to give information in court. After a threat of ar-

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DETENTIONS

Mass detentions in the bantustans continued during the last months of 1989, reflecting widespread resistance to incorporation and to bantustan policies. Detention under the emergency regulations in Alexandra in December followed the revival of the main civic organisation in the township, exemplifying a development taking place in many townships.

Ciskei bantustan

Since the forced incorporation of residents of East Peelton into the Ciskei bantustan, reported in *Focus* 82 and 86, the bantustan authorities have detained nearly 200 people opposing this. They have also been forcibly moved, assaulted and intimidated. Their homes were demolished as resistance increased.

In October, as reported in the last issue of *Focus*, over 800 residents of Nkqonkweni in East Peelton were temporarily accommodated in church halls in King William's Town after fleeing their homes. At least 100 residents were reported detained and injured in the bantustan, and a State of Emergency was declared (see *Focus* 86 p.5). Residents appealed to central government for land and for the reinstatement of their pension payments, which the bantustan administration had suspended. (DD 10/11/17.11.89; BBC 10.11.89; *Amnesty International* 6.12.89)

In December, most of those detained in October were released, and some of them charged. Shortly afterwards, six Border Council of Churches (BCC) workers were detained in terms of Section 26 of the Ciskei National Security Act (see *LIST*). The BCC had been assisting Peelton refugees and pensioners in Thornhill who had previously been forcibly moved into the bantustan. The six were detained just before the Peelton refugees moved to their temporary accommodation on land near King William's Town, provided by central government in response to the community's resistance. (BBC 10.11.89; DD 10/11.11.89, 22.12.89, 2.1.90)

BCC workers in King William's Town said they believed the detentions were linked to work being done to assist residents of Thornhill who were seeking to re-attain their South African citizenship and thereby their pensions. Residents in Hanover near Peelton were also facing incorporation into the bantustan as a result of the Alteration of Boundaries of

Self-Governing Territories Bill, which enables central government to nullify any successful legal actions against incorporation. (DD 1/20/28.12.89, 5.1.90; S 28.12.89; *Amnesty International* 10.1.90; *Focus* 86 p.12)

Three of the detainees are also members of the Dimbaza Youth Congress. On 27 December police briefly detained Wilton MKWAYI, one of the ANC leaders recently released from prison, after he addressed a meeting in Dimbaza which the police dispersed. Police also dispersed gatherings outside the bantustan at which Mkwai spoke, in Stutterheim and Ginsberg. Two of the detainees are officials of the National Sports Congress (NSC). The NSC, which was involved in mobilising protest against the rebel tour by English cricketers, called for the immediate release of the two. (DD 22.12.89, 10.1.90; *Star* 28.12.89)

On 5 January, 69 residents from Chalumna near East London were detained by Ciskei police after a mass meeting to voice discontent at conditions under the bantustan administration. They handed in Ciskei National Independence Party membership cards as a protest against the bantustan policy. On 11 January, the East Peelton community pledged solidarity with Chalumna residents, and called for the abolition of the bantustans. By the end of January when most of the detainees were apparently still being held, residents reported the imposition of a 12-hour curfew. (DD 9/12.1.90)

Lebowa residents attacked

The Lebowa bantustan authorities resorted to mass detentions and violence against residents in an attempt to suppress resistance.

During the last week of October more than 150 young people from Brooklyn village, Acornhoek, in the Lebowa bantustan were detained. Lawyers identified most detainees as pupils from Bushbuckridge primary and secondary schools where examinations were shortly due to be written. The police commissioner for the area confirmed the detentions. Some detainees were admitted to Tintswalo hospital as a result of beatings and torture. The protests began when the home of Jacques MODIPANE, the co-ordinator of the Bushbuckridge Youth Congress (BUYCO), was petrol-bombed.

In December, vigilantes destroyed the homes of six BUYCO activists, including Modipane's. The congress members went

into hiding as the vigilantes had sworn 'to eliminate all comrades'.

According to a BUYCO statement, the attacks followed BUYCO's call for a water levy boycott over 'non-existent water' and its role in organising a protest march of over 30,000 in September against the bantustan authority. (NN 27.10.89, 10.11.89, 8/9.12.89; *Star* 4.12.89, 18.1.90; CP 10.12.89)

In November, residents of Manganeng village in Sekhukhuneland were raided by police and vigilantes. Six people, who were not named, were detained during a Manganeng Youth Organisation (MAYO) meeting hosted and supported by members working in projects funded by the Kagiso Trust. The Trust's director, Achmet DANGOR, said that Lebowa bantustan officials had refused permission for 'self-help' projects to operate in areas under their control. (NN 10.1.89)

Two weeks later, in early December, in Mohaletsi village, 100 kilometres east of Pietersburg, residents reported that 400 people were detained by Lebowa bantustan police. A police spokesman admitted to at least 100 detentions.

The detentions occurred as residents resisted the imposition of a bantustan official in place of a popular traditional leader. Residents' fields were occupied by supporters of the official to prevent them ploughing. When residents presented the chief with a memorandum objecting to this, police opened fire on them. Three people were reported dead and five seriously injured people were taken to Lebowa hospital. (S 28.12.89; CP 31.12.89)

Protest in Alexandra

Workers and students in Alexandra held a one-day stayaway on 30 November, in protest at widespread repression by the army and police in the township, housing shortages, the council's housing policy and poor living conditions. Residents also demanded the resignation of the council. On that day approximately 500 people gathered for a march, which had been prohibited, in order to convey their grievances to the police. Permission to march had been refused on two previous occasions. (NN/Star 1.12.89; WM 15.12.89)

Police fired birdshot and teargas into the crowd after a three minute warning to disperse, and ordered journalists and photographers out of the township. Police subsequently detained four members of the Alexandra Civic Organisation

PRESS HARASSED

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rest, an editor of the South African Press Association (SAPA) gave evidence in November about a COSATU press statement. Several other editors were subpoenaed or subjected to law suits after reports which had exposed police atrocities. In September a SAPA reporter, Ben MACLENNAN was subpoenaed and gave evidence in the trial initiated by Lt Rockman's exposure of police violence (see *Focus* 86 p.11).

The editor and a reporter of *Vrye Weekblad* were due to testify in January about reports of police death squads. By January claims for damages had been instituted against the editors of *Vrye Weekblad*, the *Weekly Mail* and the *New Nation* by individual policemen who said they had been defamed in reports alleging their involvement. (Tel 28.9.89; WM 8.12.89; S 5.1.90; *Star* 10.1.90)

Harassment

On 13 October police seized the camera

of an overseas television crew before firing teargas at people celebrating Walter Sisulu's release. In December police ordered journalists out of Alexandra when teargas was fired at residents and in Mitchells Plain, eight journalists, including foreign television crews and an *Argus* reporter, were arrested during a demonstration by the recently formed Police and Prisons Civil Rights Union. (IC 20.11.89/14.12.89; *Star* 1.12.89)

(ACO), previously named the Alexandra Action Committee (AAC). They were Mzwanele MAYEKISO, Siphon KUBHEKA, Richard MDAKANE and Paul TSHABALALA. A week later, the vice-president of ACO, Rosemary THOBEJANE and her son Sidney were also detained. All were held under the emergency regulations.

Mayekiso, Mdakane and Tshabalala were principal defendants in the treason trial of Moses Mayekiso and others and were acquitted in June 1989 (see *Focus* 84 p.5). Kubheka is general secretary of the Print and Paper Allied Workers' Union and has been previously detained and banned. (*Star/NN* 1.12.89; *CP* 2.12.89; *S* 7/11.12.89; *Amnesty International* 8.12.89)

All four men immediately went on hunger strike — they suspended it after two weeks, following discussions about their release, which took place on 18 December. (*BBC* 20.12.89; *Amnesty International* 8.1.90)

Hunger strike

Five detainees held under the Internal Security Act in Diepkloof Prison in Soweto for up to five months embarked on a hunger strike on 13 January, demanding that they be charged or released. They were transferred to Grootvlei in Bloemfontein on 16 January. (*RMG* 20.11.89; *CT* 28.12.89; *S* 18.1.90)

SAYCO president detained

Peter MOKABA was detained on 27 January in Seshego, near Pietersburg, just within the Lebowa bantustan, after addressing the launch of Seshego township civic organisation. In 1989 Mokaba described how the Pietersburg security police had tortured and tried to kill him. He was released in May after charges were withdrawn. He had been held for 14 months (see *Focus* 84 p.4). Rapu

Molekane, the SAYCO general secretary, told a news conference that Mokaba was 'the target of a vendetta by South African police from Pietersburg.' (*South* 25.5.89; *MS* 21.1.90; *SAYCO Press Conference* 31.1.90)

Deaths on arrest and in custody

During January attention was focused on police violence against detainees with reports that four people had died while being arrested or held in custody.

The police announced in January that they had shot and killed one person and wounded another when arresting them under the Internal Security Act on the weekend of 13-14 January in Pietersburg. According to police the two had been sought in connection with the shooting of a police constable on the 12 January. Although no investigations had been completed, police alleged the two men were ANC guerrillas who had recently entered the country. They claimed they had found two Makarov pistols, several AKM rifles and four hand grenade detonators in their homes in Pietersburg. (*Star* 16.1.90; *BBC* 17.1.90)

In Khutsong, Carletonville, a 16-year-old high school student, Mbuyiselo PHIRI, died in Welverdiend Police Station while being interrogated about alleged arson. Youths detained with him described being questioned about the burning of a policeman's house and being assaulted by police. His death was reported on 18 January. Phiri's mother told a reporter that she did not recognise her son's body when first asked to identify him: 'His face was swollen and he had blood on his mouth'. The police said that they would hold an investigation and post-mortem 'to determine the cause of his death'. (*S* 18.1.90; *NN* 26.1.90)

On 24 January Khutsong residents

gathered for a protest march over his death and 'police brutality in the townships'. Police opened fire, killing at least two people and wounding many others. They arrested 13 on charges of public violence. The next day a stayaway was called, and thousands of residents remained in the township. Police fired birdshot and teargas into yards and homes in the Sonderwater squatter settlement in Khutsong as well as at youths on the streets. By the end of January it seemed that forty detainees were being held and another 50 people, mostly youths, had been charged. (*S* 18.1.90; *Star* 25/26.1.90; *CP* 28.1.90)

Another death occurred on 29 January in Natal. According to police Michael ZUNGU, a member of SAYCO, had tried to evade arrest and was then 'flung' into the back of a van, where he died. The report continued that, 'the possibility . . . of suffocation due to strangulation with a shoe-lace' was under investigation. (*MS* 31.1.90; *FT/Ind* 1.2.90; *NN* 1.2.90)

The death of another detainee was followed by a government announcement that there would be a judicial commission of inquiry into his death. Clayton Sizwe SITHOLE aged 20, was detained with four others on 26 January in Soweto under Section 29 of the Internal Security Act. On 30 January Sithole was 'found hanging from a shower pipe' in John Vorster police station. Soweto police statements to the press indicated that the men were detained on suspicion of murder, including that of two policemen. They were also found to be in possession of AK-47 assault rifles and hand grenades. One police statement denied that they had established any evidence of links with the ANC, but said that they were investigating the possibility that the men were 'politically linked to the organisation'. (*FT/Ind/GN/T* 1.2.90)

DETENTIONS — Additional to previous Focus lists (Emergency detentions not included)

Date	Place	Name (Age)	Details (where known)
Aug.'89	Soweto	Mafa, William	{ ISA 29. Held in Diepkloof for up to 5 months. Transferred to Grootvlei on 16.1.90 after going on hunger strike. Suspended hunger strike by end January
Aug.'89	Soweto	Tekane, Thabiso	
25.8.89	Soweto	Cholota, Benjamin	
25.8.89	Soweto	Ndlovu, Mike	
25.8.89	Soweto	Vuurhuid, Ben	
17.11.89	Western Cape	Henry, Mark	ISA 29. From Grassy Park.
23.11.89	Transkei	Skelenge, Ndyebo	TPSA 47. Cofimvaba Youth Congress. Rel.16.12.89
14.12.89	Ciskei	Marashula, Rev Ernest	CNSA26. BCC chair. Detained Whittlesea. Rel. 28.12.89
14.12.89	Ciskei	Ngqendesha, Godfrey	CNSA26. BCC fieldworker, Thornhill
14.12.89	Ciskei	Mqokumba, Sindwezama April	CNSA26. BCC fieldworker, Thornhill
17.12.89	Transkei	Bula, Mzwandile	TPSA47. Rector, Lumko College of Education. Rel.10.1.90
19.12.89	Ciskei	Fonte, Richard	CNSA26. BCC worker; NSC General Secretary. Rel.22.1.90
19.12.89	Ciskei	Kwelita, Samson (29)	CNSA26. BCC Inter-aid worker. Dimbaza YCO. Rel.15.1.90
19.12.89	Ciskei	Nkonyama, Smuts (38)	CNSA26. BCC; NSC official; Dimbaza YCO. Rel.22.1.90
19.12.89	Ciskei	Tokwe, Macebo	CNSA26. Dimbaza YCO. Rel.15.1.90
Rep.21.12.89	Ciskei	Hako, Japan	CNSA26. Balasi Residents Committee member. Student
Rep.21.12.89	Ciskei	Mniki, Bonisile	CNSA26. Vista University student
Rep.21.12.89	Ciskei	Unnamed youth (15)	CNSA26. Detained with Hako and Mniki
5.1.90	Ciskei	69 unnamed residents	CNSA26. Resistance to bantustan. Seven released 12.1.90
26.1.90	Soweto	Sithole, Clayton Sizwe	ISA 29. (See <i>Deaths on arrest and in custody</i>)
26.1.90	Soweto	Four unnamed men	ISA 29. Detained with Sithole
27.1.90	Pietersburg	Mokaba, Peter	ISA 29. SAYCO President

ABBREVIATIONS

Laws: CNSA — Ciskei National Security Act; ISA — Internal Security Act; TPSA — Transkei Public Security Act. Organisations: BCC — Border Council of Churches; Dimbaza YCO — Dimbaza Youth Congress; NSC — National Sports Congress; SAYCO — South African Youth Congress

DEATH SENTENCES

Condemned prisoners organise

In the wake of yet another political execution in late 1989 (see Focus 86 p.10), the campaign against the death penalty gathered strength with a number of new initiatives and increasing evidence of organisation by the prisoners themselves. The regime responded with more repression — new restrictions were imposed on information about those threatened with execution and regulations governing visits to the condemned cells in Pretoria Central Prison were tightened. In early January political prisoners on Death Row held a hunger strike in protest at their worsening conditions.

Events were held around the country to commemorate October 11, United Nations' Day of Solidarity with South African Political Prisoners. At a rally in Johannesburg organised by the Save the Patriots Campaign Committee (SPCC) a letter from political prisoners facing execution was read and later circulated internationally. The SPCC also co-ordinated a memorandum which members of the prisoners' families attempted to deliver to the Minister of Justice. However, he declined to receive it. (CP 15.10.89)

In early November the National Association of Democratic Lawyers (NADEL) organised an Anti-Death Penalty Campaign Awareness Week. The week included 6 November, the twenty-fifth anniversary of the execution of Vuyisile MINI, a leader of the South African Congress of Trade Unions, and two other ANC activists, Wilson KHAYINGA and Zinakile MKABA. Like many of those facing execution today, the three were not found to have been directly involved in the killings for which they were hanged. (South 2.11.89; NN 3.11.89)

The authorities marked the week by further restricting access to information about prisoners. Since October 1988, Lawyers for Human Rights (LHR) have operated a monitoring and legal aid scheme designed to ensure that no prisoners die without exhausting every legal opportunity open to them. For this they have used information made available to them by the Department of Justice in the form of a legal profile of each prisoner who has been given notice of execution. This includes information on whether leave to appeal has been granted, and whether the Chief Justice and the State President have been petitioned. Last minute legal moves by LHR during 1989 contributed significantly to the reduction in executions over the year, obtaining some 22 stays of execution. However, a standard request submitted to the Department of Justice by LHR about prisoners due to be executed on 9 November received the response that it was 'the policy of the Department not to furnish the particulars requested' except to the legal representative of the prisoner concerned.

This new policy will act to the particular disadvantage of those prisoners who, in the absence of a lawyer

of their own, were defended at their original trials by *pro deo* advocates. They thus have no instructing attorney to request such information and are the very people the LHR programme was designed to reach. At least one prisoner was subsequently executed without having exercised his right to petition the Chief Justice or the State President. Later in November it was reported that LHR hoped to see the Minister of Justice to discuss the change in policy. (WM 10.11.89; Star 16.11.89)

Protests against the death penalty continued throughout November and December. A resolution on the subject was adopted at the Conference for a Democratic Future, stating that 'a moratorium on all executions until the death penalty is abolished in its entirety' is one of the preconditions for negotiations. It also declared Christmas 1989 a Christmas against the Death Penalty. Two Eastern Cape events organised in furtherance of this — a meeting in Ginsburg addressed by Wilton Mkwai and a prayer service in Stutterheim — came under police attack. Youth dispersing from the Ginsburg meeting were teargassed while in Stutterheim at least 20 people were injured, one a 73-year-old woman. (DD 27/29.12.89; NN 5.1.90)

Speeches by Mkwai and Kathrada were among the ways in which the released ANC leaders demonstrated their support for those on Death Row. However, they were refused entry to Pretoria Central to visit them. In early January the authorities introduced tough new regulations governing all visits. The harshest of these means that any visitor arriving late for a visit will have it cancelled. Most visitors rely on public transport and find it impossible to ensure punctuality. The initial procedure for being accepted as a visitor was also made more difficult, requiring an approach by telephone. Visitors reported finding it difficult to get a response from the number they had been given. The SPCC noted that the new regulations increased the possibility that there might be selection of potential visitors. On 13 January a protest by SPCC and family members was held outside Pretoria Central Prison while prisoners inside began a hunger strike in protest against the new restrictions. Prisoners also demanded they be allowed visits by their children, contact visits and study

permits. Themba Xulu, whose brother Sipho was executed in 1986 and who visits other prisoners stated: 'We want our people on Death Row to be reprieved, not for their lives to be made more miserable.' (NN 5.1.90; Star 16.1.90)

Children denied visits

The South African Prisons Service regulation barring visits from children under the age of 16 years is especially harsh for parents on Death Row who may not see their children between the time of sentence and execution. For the two youngest children of Gideon Madlongwane and Evelina de Bruin, Mbulelo (aged 14) and Adelaide (12), their position is even more serious in that both of their parents have been sentenced to death. In September, after a petition to the Chief Justice, all the Upington residents sentenced to death in May were granted leave to appeal against sentence. The following month lawyers applied for bail for de Bruin as well as for the five people sentenced to prison terms. Four applications were successful, in respect of Abel KUTU, Ronnie MASIZA, Jeffrey SEKIYA and Sarel JACOBS. (Focus 84 p.3)

The application on behalf of 60-year-old de Bruin highlighted the medical reasons which made bail imperative. She suffers from high blood pressure, a heart condition and chronic rheumatoid arthritis. As the only woman presently on Death Row in Pretoria she has no companions and being illiterate can neither read nor write to pass the time. Since her sentence she has been unable to sleep or eat and doctors prescribed tablets to stimulate her appetite. Worry about her ten children and the injustice of being convicted though innocent reportedly concern her more than fear of execution. On 23 October in the Kimberley Supreme Court Justice Basson, who had sentenced Evelina de Bruin to death five months earlier, refused her application for bail. A number of organisations immediately pledged new efforts to reverse this decision. (South 23.11.89)

Trials re-opened

Three residents of Bhongolethu, Oudtshoorn, who were sentenced to death in September 1986 and subsequently lost an appeal against sentence, had their trial re-opened in January at the referral of the State President. Patrick MANGINDA, Dickson MADIKANE and Desmond MAJOLA were convicted of the murder of a local councillor who was killed by an angry crowd of over a hundred people in November 1985. Police repression in the area at the time was so severe that a special investigation was carried out and affidavits collected there were published by the Southern African Catholic Bishops Conference (SACBC). There were eight defendants at the original trial: three

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POLITICAL TRIALS

*Completed trials***De Lange and Others**

Three members of the ANC were sentenced to long prison terms in the Pretoria Regional Court on 10 November after pleading guilty to charges of terrorism. Damian DE LANGE (31), Ian ROBERTSON (36) and Susan WESTCOTT (25) were detained in May 1988 in possession of armaments including a SAM-7 surface-to-air missile. A fourth person picked up with them, Hugh LUGG, admitted in a newspaper interview after the conviction that he had given police information leading to their arrest. Lugg was held as a potential state witness but was never called to give evidence as the other three pleaded guilty. He was released in June 1989.

When they first appeared in court in January 1989, the three faced a main charge of terrorism and 25 other charges, including attempted murder arising from a bomb attack on a South African Air Force bus in Benoni in March 1988. In June Westcott pleaded guilty to ten charges of terrorism, Robertson to 11 and de Lange to 11 charges of terrorism, one of

arson and two of attempted arson. All other charges were withdrawn. The remainder of the trial was given over to evidence in mitigation of sentence, to which the prosecution responded with its own experts. One of these, General Herman Stadler, now head of the SAP Public Relations Division in Pretoria, admitted that while in the Security Branch he had co-ordinated the SADF raid into Botswana in June 1985 which killed 12 people including a six-year-old child.

The arson offences admitted by de Lange occurred before he left the country in 1981. They were part of a protest against the Republic Day anniversary celebrations carried out by him and Marion Sparg, who was sentenced to 25 years imprisonment for treason in 1986. (*Focus* 68 p.6) Robertson left South Africa in the late 1970s and underwent military training in 1985. The two of them returned in July 1987. Westcott (previously referred to as Donnelly) is a British citizen who was born and brought up in Swaziland. She was sentenced to 18 years while Robertson received 20 years and de Lange 25 years. (*CT* 26.1.89; *S* 13.6.89; *Star* 1/11.11.89)

Lithhakanyane and others

In November three alleged ANC com-

batants and three supporters of the armed struggle were forcibly dragged from a Potchefstroom court by riot police after being imprisoned for terrorism. Fighting broke out when Kedibone Angelina MOGOTSI, a 44 year old widow, was manhandled and prevented from saying goodbye to her children. In spite of the distance of the trial's venue from the Vaal area and the stringent *in camera* restrictions under which much of it was held, Vaal township residents turned out in force to support the accused, all but one of whom hailed from the area. A seventh defendant Emmah MADZIKANE (34), who had spent a year in detention with her 18-month-old daughter, was convicted on a lesser charge and given a wholly suspended sentence. (*See Focus* 84 p.5 when the accused were wrongly believed to have been former emergency detainees.)

Evidence against the accused came from 10 state witnesses who were held in detention prior to giving 'satisfactory' testimony. Statements made by two defendants, Putswe Jacob LITLHAKANYANE (19) and Thembisile Jackson BATYI (23), both alleged combatants, were contested by the defence, who said they were obtained after assault and electric shock torture by the security police. The magistrate nevertheless 'provisionally' accepted

CONDEMNED PRISONERS

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were sentenced to death, three to prison terms and two were acquitted. (*Focus* 68 p.7, 81 p.9)

The trial was re-opened to consider new evidence which had become available since the appeal, as provided for in Section 327 of the Criminal Procedure Act. Justice Lategan presided, as at the original trial, but the two assessors were different. The court will not pronounce judgement but will advise the president on whether the new evidence affects the conviction or sentence, allowing him to act accordingly. Justice Lategan is a controversial judge who has come under criticism for some of the death sentences he has passed. A research project into 'The Death Penalty in the Cape Provincial Division: 1986-8' revealed that although three judges (one of them Lategan) heard only 15 per cent of the cases in the sample, they accounted for 51 per cent of the total condemned. (*South African Journal on Human Rights* Vol 5 Pt 2 1989)

Initial reports of the re-opened trial cited the evidence of Olga Claasen, a local resident and eye-witness to events shortly before the killing, who came to Cape Town for the original trial but was never called as a witness. She had been standing with Jennifer McLean, a relative of another councillor, who declined to come forward at the time for fear of getting 'involved' but later approached the men's lawyers after the death sentences were passed. Both women exonerated Mandinga and Madikane, saying they were not present at the scene. They also exonerated Ronnie Nyuka who was sentenced to five years for the murder as he

was only 15 at the time. (*South* 20.12.89; *Star* 16.1.90; *CT* 17.1.90)

Five men from Mlungisi, Queenstown began serving sentences of 20 months' imprisonment in November after being convicted of murder in the East London Supreme Court. Two years earlier, in a trial which was subsequently ruled invalid after an appeal, they had been sentenced to death. A sixth man, Whanto SILINGA, did not survive to see the sentence reversed: prison authorities attributed his death, in December 1987, to tuberculosis.

The original trial was held before Justice Kroon in the Supreme Court in Port Alfred. Mzwandile GQEBA, Lundi WANA, Theminkosi PRESSFEET, Mzwandile MNINZI and Monde TINGWE were sentenced to death, while Thozamile BACELA was sentenced to 20 years, on the grounds of his youth. Subsequently the men's lawyers were allowed to lodge a special entry on appeal saying that the trial court had been improperly constituted. This arose from the fact that one assessor was discharged during the trial in order to be with his daughter who was seriously ill. By a majority decision in May the Bloemfontein Appeal Court ruled that the assessor's compelling personal reasons to absent himself from the trial did not make him 'unable' to continue, as required by section 147 of the Criminal Procedure Act if a trial is to be allowed to proceed with only one assessor. This was especially true as the case resulted in six death sentences being passed — 'pre-eminently the type of case in which the legislature intended that the trial judge should be assisted by two assessors'.

The Appeal Court decision meant that

the men's convictions and sentences were overturned but after just five hours freedom they were re-arrested and ordered to stand trial again. When this re-trial commenced on 30 October, before a different judge, the accused pleaded guilty to murder with extenuating circumstances, a plea accepted by the state. The death sentence may still be passed after such a conviction but it is at the judge's discretion. In this case Justice Jansen does not seem to have sat with assessors, indicating he had already ruled out the possibility of passing such a sentence.

The trial proceeded with evidence in mitigation of sentence. Witnesses included the accused themselves, other residents of Mlungisi and a social anthropologist who testified about crowd behaviour and social deprivation. The six were accused of common purpose with the killers of a young woman who had fraternised with police brought in to suppress resistance in Mlungisi. They were not alleged to have killed her themselves. She was burnt as a suspected informer the day after a mass funeral for 11 people killed by police when they dispersed a meeting in the local Methodist church. Feeling against the police and their associates was especially high and the accused admitted suggesting that the young woman, Nosipho Zamela (aged 18), should be publicly sjambokked for her behaviour. Others later decided she should be killed and the accused stated their regret that in the heat of the moment this had been done. On 21 November, the five who had been sentenced to death, as well as Bacela, were each sentenced to effective prison terms of 20 months. (*DD* 25.5.89, 31.10.89, 1-22.11.89; *WM* 26.5.89)

the statements of the two accused. Then, together with Lawrence Tumelo SELEKOE (19), they refused to recognise the court any longer.

No weapons were found either with the accused at the time of their arrest or at any of the places allegedly 'pointed out' to police by them. However, videos of them pointing out and dismantling and re-assembling an AK-47 rifle were admitted as evidence. Litlhakanyane, Batyi and Seleko were all convicted of undergoing military training abroad and returning to South Africa in 1988 under instructions from the ANC. They allegedly intended to attack police and military officers as well as the mayor of the Lekoa Town Council, and to disrupt the October 1988 municipal elections and the threatened execution of Vaal residents, the Sharpeville Six. The three were each sentenced to 12 years imprisonment.

Mogotsi, Edward Rakomang MOTUBATSI (29) and Saul Andrew TSOTETSI (35) were convicted of helping people to leave the country for military training by providing funds and transport for them. Mogotsi, with Madzikane, was also said to have accommodated combatants. One news report described Litlhakanyane as Madzikane's younger brother. Motubatsi, believed to have been active in the Vaal Residents Association and a former detainee (*Focus* 57 p.4, 72 p.57), was imprisoned for an effective two years while Mogotsi received an effective four year term. Tsotetsi, a former fieldworker with the Witwatersrand Council of Churches who served a six-year sentence imposed under the Terrorism Act in 1978 while he was still a student, was sentenced to 10 years. (*Focus* 19 p.4, 20 p.12; NN 30.6.89, 15.9.89; WM 7.7.89, 11.8.89, 17.11.89; CP 9.7.89, 27.8.89, 3/10/17.9.89, 29.10.89, 19.11.89; SS 17.11.89)

Madonsela and Khumalo

Two ANC combatants who refused to participate in their trial because they had had 'no say in drawing up the legislation' and could not get a fair trial from an apartheid court, were convicted of terrorism and imprisoned by the Protea Regional Court on 24 November. Obed Selukwanda MADONSELA (23) and Christopher KHUMALO (27) refused to plead, to be represented by lawyers, to cross-examine witnesses or in any other way to influence proceedings. In a final statement Madonsela explained why after 'nearly 50 years of persuasive but peaceful campaigns' met by 'brutal insensitivity' and intransigence, South Africa's 'peace loving people' had formed Umkhonto we Sizwe: 'The alternative to armed struggle was submission.'

We vow to continue the struggle wherever we are until every pillar of apartheid has been felled and democracy is achieved.

Christopher Khumalo

The men were charged with carrying out armed actions in their home town of Tembisa in the run-up to the October 1988 municipal elections. Madonsela

alone was convicted of causing an explosion outside Tembisa's municipal offices on 6 October injuring six people. The magistrate accepted that he had timed the explosion for lunch-time, hoping to avoid casualties. Both men were convicted of an attack on 10 October on Tembisa police barracks in which four policemen were slightly injured. They were also convicted of the illegal possession of explosives and Madonsela of possessing banned literature of the ANC and the South African Communist Party. Madonsela was sentenced to an effective 18 years and Khumalo to 10 years. (*Star* 7/10/27.11.89; *S* 20/27.11.89; NN 24.11.89)

Appeals

Delmas verdicts overturned

Five defendants sentenced to prison terms for treason and terrorism at the end of the Vaal (later Delmas) Treason Trial were freed from Robben Island on 15 December after winning their appeal. UDF leaders Patrick 'Terror' LEKOTA, Popo MOLEFE and Moss CHIKANE were refused bail throughout the trial and had been in custody continuously since April 1985. Tom MANTHATA, a senior fieldworker with the South African Council of Churches, and Gcina Petrus MALINDI a Vaal activist, had served just over a year of their sentences. Of the five only Malindi was acquitted of treason, receiving his sentence for terrorism. Six other accused who received suspended sentences, also for terrorism, had their convictions overturned by the appeal ruling. (*Focus* 81 p.8)

In September lawyers for the 11 appellants were told that their application for a special entry arising out of irregularities could be heard in advance of the main appeal against conviction and sentence. The special entry concerned the controversial dismissal of one of the two assessors in the case in March 1987. (See *Focus* 70 p.7 under *Baleka and others*.)

Professor W A Joubert was dismissed by Justice K Van Dijkhorst after he admitted signing the UDF's Million Signature Campaign against the new constitution. At the time defence lawyers called for the trial to be abandoned, but were thwarted in their attempts to present evidence from Joubert in support of this call. Judgment in the appeal was delivered by Chief Justice Corbett who stated that the presiding judge did not have the power to dismiss the assessor nor to order the trial to proceed without him. This could only be done if the assessor was 'physically' unable to continue, not because of an alleged lack of impartiality. In the latter case Justice Dijkhorst should have sought the assessor's recusal, not summarily dismissed him. Furthermore he erred in refusing both Professor Joubert and the accused an opportunity to put forward their views on his decision.

This judgment confirmed the earlier judgment handed down by the appeal court in the case of the Queenstown Six

(see *TRIALS RE-OPENED*). However, the cases differ in that assessors are only obligatory in cases leading to a death sentence. As in the Queenstown case, technically the eleven appellants could be re-tried on the same charges but commentators felt this was unlikely. (*DD* 26.9.89; *Star* 7.10.89, 28.11.89, 2/16.12.89; *WM* 24.11.89; *S* *Star* 17.12.89)

Sentences reduced

Four men convicted in the Pretoria Regional Court in October 1988 of undergoing military training and furthering the aims of the PAC had their prison terms reduced by the Supreme Court on 3 November 1989. Three others received no reduction in sentence. Mabata Enoch ZULU (52) and Reverend Daniel NKOPUDI had their sentences of 16 years reduced to 10 years, Siyabulela Ndoda GCANGA (26) had a 12 year sentence reduced to 10 years while Setsiba Paul MOHLOLO (29) had his 10-year sentence reduced to seven years. Appeals by Vincent Alson MATHUNJWA (29), Achmad CASSEM (41) and Yusuf PATEL (35) were rejected. (*Focus* 80 p.5; *S* 6.11.89)

Also in November Justice Kroon reduced the sentences imposed in May 1989 on two ANC combatants, Zolile DIKIZA (28) and Ludwe LEBESE (27), by the Kenton-on-Sea Regional Court. He replaced the 10-year prison terms with seven-year sentences because the presiding magistrate had erred in assessing factors in mitigation of sentence. (*Focus* 84 p.4; NN 1.12.89)

Suspended sentence

The Repression Monitoring Group reported in late November that a five-year sentence imposed in October 1989 on Nana Robert MALITI had been suspended for two years. (*Focus* 86 p.8; *RMG* 20.11.89)

Continuing trial

Toka and 11 others

The trial of a group of Mamelodi and Atteridgeville activists was due to resume in the New Year in the Eastern Transvaal town of Delmas where it had been transferred from Pretoria. The state alleges a wide-ranging conspiracy involving the twelve men, arising from armed actions in the Pretoria area in 1988. Charges include murder and terrorism. Two of the accused are alleged to have undergone military training abroad and the rest, who include members of the Mamelodi Civic Association and the Youth Congresses of Mamelodi, Saulsville/Atteridgeville and GaRankuwa, to have been trained inside the country. The accused are Moeketsi Rodney TOKA (25), Godfrey Velaphi MOKUBE (41), Francis PITSE (24), Ernest Thoboki RAMADITE (24), George MATHE (21), Johannes MALEKA (25), Peter MALULEKA (34), Phuti Bernard MAKGONYANA (26), Joseph NKOSI (39), Thapela Reuben KHOTSA (23), Reginald Noah LEGODI (22) and Alfred James KGASI (25). (*S* 12.1.89, 20.7.89)

Other Trials

Support for the armed struggle

A number of people were convicted in the Western Cape in late 1989 of giving support to the ANC's armed struggle. In at least two trials evidence of police torture was heard.

A student leader from Langa was given a suspended sentence by a Cape Town Regional Magistrate in November after pleading guilty to charges of terrorism. Phumzile SIMELELA (20), who was assaulted by the police in 1985 and successfully sued the Minister of Law and Order as a result, was detained in July 1988 and held in solitary confinement for nine months before being charged and released on bail. He said he was recruited into the ANC in May 1988 by Kenneth MOYAKE, an ANC combatant who has since died. Moyake allegedly acted with Allen Ndodomzi MAMBA who is serving an 18 year prison term for ANC activities. According to the State, Simelela travelled to Lesotho with a man called Solly, and while there Solly obtained three limpet mines, one of which was stored at Simelela's home. (*Focus* 83 p. 8; *CT* 4.4.89, 24.11.89; *Repression Monitoring Group (RMG)* 20.11.89)

Three women, Ethel Thejiwe LOZA (44), her daughter Maureen Mandisa LOZA (19) and Sindiwa Beauty DLAWU, convicted of assisting and harbouring a guerrilla, were given suspended sentences in the Cape Town Regional Court in October. A fourth accused, Xolile MINI, (30) was acquitted. At their first court appearance in August 1988 Khungera Gloria MALI appeared with them.

The trial followed an incident in Guguletu in July 1988 during which police laid siege to the house in which a suspected ANC guerrilla, Nkululeko 'Solly' MUTSI was staying, and killed him. Dlawu said she had been forced to make a statement saying she knew Mutsi was a 'terrorist'. (*CT* 27.7.88, 8.8.88, 6.4.89; *RMG* 26.9.88, 20.11.89)

Suspended sentences were also handed down in the Cape Town Regional Court to Veliswa MHLAWULI (37) and Linda Oriel TSOTSI (33) in December. Tsotsi pleaded guilty to joining the ANC and its military wing Umkhonto we Sizwe in 1986 and to acting on behalf of the ANC. Mhlawuli pleaded guilty to harbouring and concealing Tsotsi and three other alleged guerrillas over a period of three years. There was no evidence that either of the accused had taken part in armed actions. Tsotsi, a member of the Port Elizabeth Black Civic Organisation and the Port Elizabeth Women's Organisation, was detained in September 1988 and remained in custody throughout the trial. Mhlawuli, a journalist from Guguletu, was detained in October 1988 while still suffering the after-effects of losing an eye after being shot by an unknown assailant. She was granted bail in March

1989. (*CT* 24.3.89, 13/15.12.89; *Amnesty International* 31.3.89; *S* 15.12.89; *Focus* 84 p.2)

Christina TYULU (40) pleaded guilty in the Wynberg Regional Court in November to helping two suspected ANC guerrillas escape from Wynberg police cells in January 1989. Tyulu, of the KTC squatter camp in Cape Town, was detained in February 1989 and held for almost three months before being charged and bailed. She testified that whilst in detention she was made to lie on the floor and a police officer, Jeffrey Benzien, sat on her. A wet sack was placed over her head and pulled tightly over her nose, partially suffocating her. Benzien has been accused of assault by a number of other detainees. In July 1987 he shot dead ANC member Ashley Kriel but was exonerated at the inquest. The magistrate gave Tyulu a nine-month jail term, saying he had taken her treatment in custody into account. Bail of R2,000 was extended pending appeal. (*Focus* 83 p.9, 85 p.5; *CT* 29/30.11.89)

One of the people Tyulu helped to escape may have been Siphiwe QILA (27) who was detained under section 29 of the Internal Security Act on 9 November 1988 and escaped from Wynberg police station on 28 January 1989. He was re-detained on 13 April and subsequently charged with terrorism and escaping from custody. Early reports said that a policeman had been detained in connection with his escape. (*Focus* 81 p.7; *CT* 14.2.89; *RMG* 9.10.89)

Christopher TOISE (63), was given a suspended sentence in November in the Wynberg Regional Court after pleading guilty to possessing an AK-47 rifle and to harbouring an escaped prisoner. He was detained on the same day as Tyulu and was released on bail four months later. (*RMG* 18.6.89; *DD* 17.11.89; *Focus* 83 p.9)

During his trial it was alleged that Toise stored the rifle on behalf of Agnes Ntombizodwa YOYO (26) or her husband Danisile NOKHATYWA (33). Yoyo, Nokhatywa and a third accused, Buyiswa JACK (34), were charged with terrorism in the Wynberg Regional Court in June. All three had previously been held as section 29 detainees, Nokhatywa and Jack from November 1988 and Yoyo from February 1989. Nokhatywa and Yoyo remained in custody throughout the trial, while Jack was given bail in May shortly before giving birth.

Jack, a fieldworker with the Western Province Council of Churches, was pregnant and ill at the time of her detention and had been pressurised into making a statement. Diets and medication prescribed by doctors were withheld from her and she was promised better food and bail if she co-operated. She was also shown statements implicating her, allegedly made by Nokhatywa and Ncunyswa HANS, de-

tained shortly after Jack. (*Focus* 81 p.7)

The three pleaded not guilty to charges of terrorism but then in December made certain admissions. Nokhatywa and Yoyo admitted joining the ANC in 1985 and undergoing military training in Angola. Nokhatywa further admitted throwing a hand grenade at an SADF vehicle in 1985, persuading Jack to collect money for him from Botswana and collecting arms from a cache with Jack. In December Nokhatywa and Yoyo were convicted of terrorism and Jack of rendering assistance to a terrorist. Reports of the sentencing were incomplete but it seems only Nokhatywa received a custodial sentence. (*Focus* 84 p.2; *CT* 9.6.89, 15.12.89; *RMG* 18.6.89; *S* 26.10.89; *Star* 13.12.89; *WM* 19.1.90)

The Human Rights Commission reported that Patrick SMELANE was given a one-year jail term for possession of a hand grenade by a Johannesburg court in October. No details of the trial were available. (*HRC Update* Nov 89)

Public violence

Public violence trials continued in the Western Cape, including at least one arising from the Defiance Campaign.

Colin DESOZA (17), who was held in custody from January 1989, was given a two-year sentence by a Cape Town magistrate on 15 November. No details of this case are known although other information about Desoza is available. He was first detained when he was 15. In June charges of abduction against him and a Mr Desoza were withdrawn in the Mitchells Plain Regional Court. He also appeared in the Parow Regional Court in September with Roger LAMBERT, Nawaldien THOPE and Achmet MORRIS on charges of arson. This case had not been completed by mid-January 1990. (*RMG* 27.3.89, 10.7.89, 20.11.89; *HRC Update* Sept 89)

On 12 December, following the failure of an appeal, Maxwell MOSS (29) was reported to be due to begin an 18-month sentence imposed by the Parow Regional Court in February for public violence. Moss, chair of the Saldanha Youth Congress and a West Coast Council of Churches fieldworker, was acquitted of similar charges in the Cape Town Regional Court in May. In September he was given a suspended sentence in the same court in a third public violence trial. Moss was detained in September 1987 and held for a year. (*Focus* 84 p.5; *HRC Update* Nov 89; *RMG* 20.11.89)

Diana VAN BEULEN (22) was sentenced in the Strand Magistrates' Court to an effective nine months in prison for public violence offences on 14 November. Van Beulen, a mother of three, was arrested on 19 August following a defiance campaign beach protest. Two men, David MOTHAO (22) and Brend HENDRICKS (24), who were arrested following the same incident and who appeared in the Strand Magistrates' Court on 14 November, had charges against them withdrawn. (*Focus* 84 pp.1,8; *CT* 15.11.89; *RMG* 20.11.89)

Constitution takes shape

SWAPO prepares for government

The draft constitution for the new Namibian state was presented to the Constituent Assembly at the end of January. It guarantees democratic rights and human freedoms and outlaws apartheid. Shortly before this, in a separate move, a 'shadow cabinet' was appointed by SWAPO President Sam Nujoma to prepare for an independent Namibia.

The Constituent Assembly, in which SWAPO has 41 out of 72 seats as a result of its victory in the UN-controlled elections last November (see *Focus* 86 p.1), will become Namibia's new legislature. It set 21 March as the date for independence.

During December the seven parties in the assembly tabled their constitutional proposals. These were then referred to a standing committee on which all parties were represented, which worked out a compromise document — although the SWAPO draft was used as the basic working proposal. (NCC 5.12.89)

SWAPO's draft constitution incorporated principles agreed upon in 1982 during the course of the independence negotiations, which all parties supported. These included provisions for an independent judiciary, regular democratic elections to the legislature and a bill of rights. There was also broad inter-party agreement on many general provisions of the constitution, including citizenship rights, the boundaries of the territory, educational policies, local and regional government, and language, and constitutional provisions relating to the economic system. (Nam 13.12.89)

Opposition revolved around SWAPO's proposals for an executive presidency, a single chamber of parliament, provision for emergency rule and detention without trial, and constituency-based elections as opposed to proportional representation. By the time the assembly broke up for its Christmas recess, most of these issues had been largely resolved through compromise. (GN 22.12.89)

The standing committee announced on 21 December that broad agreement had been reached and that three legal experts had been appointed to finalise the constitution, which would be presented to the assembly when it reconvened in January. (GN 22.12.89)

The legal experts presented their draft to the standing committee on 9 January, but presentation of the final document to the assembly was held up when delegates objected to some of the clauses formulated by them. The draft was 'leaked' to *The Namibian* and published on 10 January. (Star 11.1.90; Ind 13.1.90)

The National Union of Namibian Workers (NUNW), Namibia's trade union federation, which had campaigned for SWAPO in the elections, demanded

revisions to the draft document. It called for further fundamental freedoms to be incorporated, mostly related to workers' rights, and asked the Constituent Assembly to promote public debate on the draft constitution. (Nam 11.1.90)

Draft published

The revised draft was presented to the Constituent Assembly on 29 January. It was to be discussed article-by-article but delegates were not expected to raise major objections because of the lengthy process of compromise involved in drawing it up.

The draft constitution provided for an executive and legislature, an independent judiciary and the establishment of a police and military force. English would be the official language, but other languages could be used where appropriate. Other provisions were:

- **Territory** Namibia will be a secular republic 'founded upon the principles of democracy, the rule of law and justice for all'. Its territory will include the South African-claimed enclave of Walvis Bay, as well as the islands off the Namibian coast, and its southern boundary with South Africa will extend to the middle of the Orange River (see *Walvis Bay* p.12).

- **Fundamental rights and freedoms**

These are constitutionally entrenched, and include provisions against forced labour, expropriation of property without compensation, torture and arbitrary arrest, and sexual and racial discrimination. The rights to privacy, political activity and conscientious objection to military service are upheld, and the death penalty is abolished. Practising apartheid and racism will become criminal offences.

- **Education** All children are required to attend school until the age of 16 or until they have completed primary school. Education will be free but private schools will be allowed, providing they do not discriminate on the grounds of race.

- **Executive** The president will be elected by universal suffrage for a five-year period. He or she will be allowed to serve for only two periods and will need 50 per cent of votes cast to take office. The president will have powers to appoint the prime minister, cabinet and senior civil servants, to declare a state of emergency, and to declare war or con-

clude peace and can be impeached by a two-thirds majority of the National Assembly and National Council. Cabinet ministers will be prohibited from carrying out private business activities.

- **Legislature** The National Assembly of 72 members will be elected by proportional representation for a five-year period.

- **Regional Councils** Namibia will be divided into regions, each of which will elect a Regional Council. There will also be elected local and municipal bodies.

- **National Council** A second chamber known as a National Council will be elected by the Regional Councils. It will have powers to review legislation and refer it back to the National Assembly. [H?] 'Shadow cabinet'

President Nujoma announced on 21 December the appointment of 16 'shadow ministers' as well as deputies and assistants, who were asked to start planning to establish ministries. All the 'ministers' were drawn from SWAPO (although the posts of agriculture and tourism were left vacant). However, Reggie Diergaardt, the UDF chairman, and Vekuii Rukoro, the president of the Namibia National Front, took up deputy posts, resulting in rifts within their respective parties. (WO 9.12.89; NCC 21.12.89; BBC 23.12.89; TN 8/15.1.90)

Education struggles

The provisions of the new constitution will only come into force after Namibia gains its independence. However, Hage Geingob, the chairman of the Constituent Assembly, called in December for apartheid to be abolished in schools in the new year. He was responding to statements by the South African Administrator-General (AG) that schools would remain segregated until independence. The AG had also attempted to 'privatise' whites-only schools by leasing them to a company established by some Afrikaans and German churches. This was widely condemned as an attempt to avoid desegregation, and the plan was dropped after protests. (Nam 8.12.89; Star 12.12.89; WA/Nam 13.12.89)

Just before schools opened in the second week of January, the AG backed down and announced that, as the white schools themselves had requested it, they would be open to all. However, the legislation governing segregated schooling was not repealed and the schools applied strict selection criteria, with the result that only about 500 black students registered at white schools. Hospitals reserved for whites were declared 'open' at the same time, but blacks would only be admitted as private patients. (Nam 11/15/18.1.90)

REPRESSION

Violence in the north

In the months after SWAPO's election victory residents of northern Namibia continued to be harassed, attacked and killed in incidents attributed to former members of the army and Koevoet. Demobilised soldiers and Koevoet members appeared to be grouping in an organised way and senior South African officers were involved in orchestrating their activities. They were still being paid, apparently until the end of March, and it was reported that many of them had joined UNITA.

The SWA Police (SWAPOL), still responsible under the UN Plan for maintaining law and order, were criticised for not acting against the perpetrators of armed assaults. Between the elections in November and the end of the year 25 people, mostly SWAPO supporters, were reportedly killed.

There were a number of reports indicating Koevoet had not been properly demobilised. It seemed also that some former Koevoet and 101 Battalion soldiers had joined UNITA although SWAPOL refused to confirm this. UNITA were held responsible for numerous incidents of cattle rustling and looting as well as assaults in the Ovambo and Kavango bantustans bordering Angola and in January the UNTAG force on the border was increased in strength.

In early December, some Koevoet members were seen at Oshakati, apparently collecting their salaries, while others were told to be patient and 'await their transfer to Jamba', UNITA's headquarters in southern Angola. At the end of January, when monthly wages were again paid out at Oshakati, it was estimated that between three and four thousand members of 101 Battalion remained on the army payroll. Those who had joined UNITA were reportedly brought back from Angola in order to collect their money. The *Namibian* newspaper was told that former 101 Battalion and Koevoet forces had established a base on the Namibian-Angolan border, near UNITA's bases at Oshindombe and Onanghwe. (Nam 24.1.90, 1.2.90)

On 18 December 300 members of the two units went on the rampage in Oshakati after demanding weapons and pensions at the police station. They assaulted hawkers and threw a hand grenade after being barred from SWAPO's offices.

SWAPO drew attention to the role of former Koevoet commanders in directing much of the terror in the north. General Hans Dreyer, Koevoet's founder, remained in the country meeting with ex-

members of the force, even after being officially promoted and transferred to Pretoria. He was seen in Oshakati as late as 24 January, along with Captain J V Vorster who had been implicated in violence against SWAPO supporters. (NAMPA 25.1.90)

The easy access former soldiers have to weapons was highlighted by a number of incidents, including one in which the Okave Koevoet base was left unguarded over a weekend with ammunition, hand grenades, mortars and mortar shells, assault rifles and other military equipment all available. In January SWAPOL personnel were discovered moving a large quantity of arms to a site near Windhoek in violation of UN Resolution 435, which stipulates that this should only be done under UNTAG supervision. Another huge cache was discovered by villagers near Ondangwa. Attempts by UNTAG to form a reconciliation committee in the far north were sabotaged when former Koevoet and SWATF members withdrew. (Nam 19.1.90)

Reconciliation

By January there had been peace moves in two other areas, Kaokoland and Kavango. Faced with violent attacks by DTA supporters in Opuwo, in one of which a two-month-old child was badly injured, SWAPO joined with the National Patriotic Front to convene a meeting of ten local leaders. They decided on a total ban on carrying weapons in public, whether firearms, knives or bow-and-arrows. Abisai Shejavali, general secretary of the Council of Churches in Namibia, welcomed the move and regretted only that the police were 'reluctant to co-operate with the initiative. (NCC/Nam 27.11.89)

Problems in the Kavango bantustan were exacerbated by the presence of UNITA. After SWAPO had won the elections DTA vigilantes had taken revenge with apparent impunity and in one instance a DTA member of the Constituent Assembly was accused of beating up two women. In mid-January a meeting was convened under the auspices of UNTAG. Former PLAN combatants

and SWAPO representatives sat down with ex-Koevoet and South West Africa Territory Force (SWATF) fighters as well as United Democratic Front and DTA officials. They adopted the Rundu Plan of Action to 'work together for a common destiny'. (Nam 23/24.11.89, 18.1.90)

Caprivi

In the eastern Caprivi bantustan former members of SWATF and Koevoet grouped themselves into a pseudo-cultural organisation, Kopano ya Tou, under the leadership of a former army chaplain. Incidents in the region included attacks on individuals and a spate of arson attacks in Katima Mulilo. Local residents accused demobilised soldiers from 701 Battalion of setting alight the thatched-roof homes of SWAPO supporters.

Information was leaked to the press about two secret meetings, in November and January, involving the DTA vice-president Mishake Muyongo. This indicated that he not only condoned the violence but was encouraging it. The second meeting was reportedly attended by former Koevoet members 'currently banded in what is today known as Kopano ya Tou'. Muyongo was said to have pledged to arm and train former members of the armed forces 'for the fight against SWAPO' and to be planning to cut the eastern Caprivi off from the rest of Namibia. (NAMPA 17.11.89; TN 8.1.90)

Further speculation about Kopano ya Tou was aroused when the local SWABC radio station broadcast a mysterious advertisement on its behalf inviting former soldiers to collect uniforms from the Mpacha air base in Katima Mulilo. (Nam 4.12.89)

Two detainees arrested in December in connection with the killing of a policeman in Katima Mulilo reported being tortured while in custody. Shadrack MWILIMA, who returned to Namibia under the UN resettlement plan, told his family of being beaten, suspended from a tree and given electric shock torture when police interrogated him about the murder weapon. They noted fresh scars on his body. Mwilima was due to appear in court, with Damien TONCHI who was also tortured, on 18 January. (Nam 21/28.11.89, 4.12.89, 18.1.90; TN 21.12.89)

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Walvis Bay — South African threat

Thousands of South African troops in Walvis Bay, Namibia's only major port, threaten the new nation's independence. SWAPO — with the support of most parties in the new Constituent Assembly — is committed to gaining control over the port, but Pretoria insists that over 1,000 square kilometres of territory around Walvis Bay belong to South Africa.

Walvis Bay and the surrounding area claimed by South Africa were excluded from the provisions of the UN independence plan. However, the Security Council had previously, in Resolution 432, stated that 'the territorial integrity and unity of Namibia must be assured through the reintegration of Walvis Bay within its territory'. The resolution stated that 'pending the attainment of this objective, South Africa must not use Walvis Bay in any manner prejudicial to the independence of Namibia or the viability of its economy'. (*Action on Namibia Oct 1989*)

The roots of the dispute lie in the nineteenth century. Britain claimed possession of the bay and its surrounds in 1878; Germany colonised the remainder of Namibia.

After South Africa took over Walvis Bay in 1915, it was treated as part of Namibia, and was administered in this way until 1977 when Pretoria declared that the port would not be part of an independent Namibia. The administration of Walvis Bay was transferred to South Africa's Cape Province. (*Action on Namibia Oct 1989*)

The UN and SWAPO rejected South

Africa's claims to the port, but in order not to hold back negotiations, SWAPO agreed to the exclusion of Walvis Bay from the UN independence plan, provided it was later reintegrated with Namibia. The UN Transition Assistance Group (UNTAG), which arrived in Namibia on 1 April last year, was thus not deployed in Walvis Bay. Repressive and apartheid legislation remained in force and there was no voting there. Namibians were coerced into applying for South African, as opposed to 'South West African', identity cards. They were however allowed to register and vote in the independence elections, mostly by travelling to nearby Swakopmund. South Africa prohibited SWAPO from campaigning in Walvis Bay and harassed people leaving the enclave to register or vote. (*Nam 25.8.89, 27.10.89, 9.11.89*)

Attention was focused on the plight of Namibian political prisoners in Walvis Bay when five students were sentenced during the election (*see Focus 86 p.4*). Demonstrations organised by the Namibia National Students Organisation to demand their release were banned in Walvis Bay but took place in Swakopmund and Windhoek. Following an earlier case, Leonard SHEEHAMA, who was detained in northern Namibia, was brought to trial and sentenced to death in Walvis Bay in April last year. (*Focus 83 p.4*)

Stranglehold

South Africa also claims 12 small uninhabited islands dotted along the southern coast of Namibia, giving Pretoria the opportunity to claim parts of Namibia's territorial waters and its rich fishing resources. The new Namibian government will declare a 200-mile Exclusive Economic Zone in order to gain control over fishing, but South Africa may attempt to claim up to 20 per cent of coas-

tal waters south of Swakopmund on the basis of its claims to Walvis Bay and the islands. (*Star 27.11.89*)

Control over Walvis Bay gives the South African regime a stranglehold over Namibia's foreign trade, half of which passes through Walvis Bay — most of the remainder goes through South Africa itself. The port is also a base for Namibian and foreign fishing fleets and the centre of the fish-processing industry.

A further potential source of territorial conflict revolves around Namibia's disputed southern border with South Africa, demarcated by the Orange River. Contrary to international practice, Pretoria claims that the border lies not along the centre of the river, but on its Namibian bank. This claim — which will be opposed by the new Namibian government — gives South Africa control over the river's water, which is essential for Namibian agriculture. (*Star 27.11.89*)

Military threat

A more immediate threat to Namibia's independence is the presence of up to 5,000 South African troops in Walvis Bay. The South African Defence Force (SADF) has established a naval base, an air base, two army bases and a communications centre in the enclave. (*Paratus Sept 1983, July 1984; Servamus Feb 1986*)

Reinforcement took place in the second half of 1989 as the SADF pulled out of Namibia in accordance with the UN plan. A new base was being constructed at Rooikop for 61 Mechanised Battalion, a combined armour, artillery and infantry force which was involved in all major military operations in Angola and Namibia during the 1980s. According to the SADF it is 'a full fighting force . . . on a permanent state of combat readiness'. Further construction was taking place at Rooibank, believed to be the site of a new communications and tracking facility. (*NCC 13.12.89; Nam 14.12.89*)

Sources and abbreviations: BBC British Broadcasting Corporation Summary of World Broadcasts, London; CIt The Citizen, Johannesburg; CP City Press, Johannesburg; CT Cape Times, Cape Town; DD Daily Dispatch, East London; Debates Parliamentary Debates, Cape Town; DN Daily News, Durban; EP Evening Post, Port Elizabeth; EPH Eastern Province Herald, Port Elizabeth; FM Financial Mail, Johannesburg; FT Financial Times, London; GG Government Gazette, Pretoria; GN Guardian, London; HRC Human Rights Commission Johannesburg; MS Morning Star, London; Nam Namibian, Windhoek; NCC Namibia Communications Centre, London; Obs Observer, London; S Sowetan, Johannesburg; SS Southscan, London; S Star Sunday Star, Johannesburg; Star Star, Johannesburg; ST Sunday Times, London; S Trib Sunday Tribune, Durban; Tel Daily Telegraph, London; T Times, London; TN Times of Namibia, Windhoek; WA Windhoek Advertiser, Windhoek; WM Weekly Mail, Johannesburg; WO Windhoek Observer, Windhoek.



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