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February 17, 1984

TO: Honorable George Crockett
Attention: Alan Bowser

FROM: Brenda Branaman, Analyst in African Affairs
Foreign Affairs and National Defense Division

SUBJECT: African National Congress, Nelson and Winnie Mandela

This memorandum responds to your request of February 9, 1984, for background information on the African National Congress and on Nelson and Winnie Mandela.

African National Congress (ANC)

Policy

The African National Congress is South Africa's oldest and best known organization of resistance against that country's system of racial segregation known as apartheid. The majority of its members are black, but the organization has a nonracial policy that allows it to accept Indians, persons of mixed race (coloreds), and whites. Disagreement over whether to accept nonblacks into the organization produced a splinter group in 1959, the Pan Africanist Congress (PAC).

The ANC began in 1912 with a policy of seeking change in South Africa's segregated system through nonviolent methods. It was not until 1960, the year it was banned, that the ANC turned to violence and began to advocate the overthrow of the South African government. The organization claimed to have been forced to turn to this policy after many years of seeing the

government respond to nonviolent demonstrations with arrests, detention, intimidation, violent police actions against demonstrators, and increasingly repressive laws to control dissent.

In its acceptance of the use of violence, the ANC claims to restrict its sabotage activities to key strategic targets, refraining from indiscriminate acts against civilian targets so as to avoid the loss of life. Over the years, the ANC has tried to make a distinction between itself and organizations employing terrorist tactics and indiscriminate killing. The policy apparently is intended to secure both international and black South African support. In 1980, the ANC signed a protocol to the Geneva Convention, pledging "humanitarian conduct of the war." Reportedly the ANC is the first guerrilla group ever to sign the protocol.

The South African government, on the other hand, depicts ANC guerrillas as terrorists, claiming that their sabotage activities do cause deaths. The ANC leadership, in fact, has accepted the inevitability of some innocent casualties as the sabotage campaign is stepped up. Responding to charges of terrorism in the deaths of civilians in the May 1983 car bomb attack in Pretoria, Oliver Tambo, the ANC's current President, called the deaths "a matter of regret." But he added, "...Never again are our people going to be doing all the bleeding." Such statements may reflect an internal debate within the ANC over whether or not to continue the policy of avoiding civilian deaths as much as possible. A change of policy is said to be advocated by many younger, more militant ANC members.

An issue of concern to many observers of the ANC is the charge by some that it is Communist-controlled. Those who make this charge argue that one-third to one-half of the ANC's leadership are members of the South African Communist Party (SACP), and the leader of the military wing, Umkonto We Sizwe

(Spear of the Nation in Zulul), is also a SACP member. It is further argued that most of the ANC's financial support, arms, and training come from the Soviet bloc countries. Supporters of this viewpoint believe that Communist control of the ANC would result in a Marxist government should the ANC ever attain power in South Africa.

Others argue that the ANC is not Communist-controlled. Those who make this assertion say that although some of the ANC's leadership are also members of the SACP, the ANC does not base its decisions on directives from the SACP. They further argue that the ANC is a nationalist liberation movement with the objective of gaining political equality for South African blacks and the elimination of all discriminatory laws. The ANC receives contributions from many sources, one of the largest being Sweden. The ANC claims it has always been willing to accept aid from any source and has asked for aid from the West (specifically Canada, Europe, India, and the United States), as well as the Soviet Union. But it was primarily the Soviet Union that responded, while other countries refused to provide assistance. As further evidence that the ANC is not under Communist control, supporters point out that the ANC's basic document, the Freedom Charter, is not/a considered Marxist document. The Charter espouses human rights, and it is mildly Socialist but not anti-capitalist. The alleged ANC attitude toward a post-revolutionary government is found in statements by Oliver Tambo in a 1981 meeting with American corporations and banks doing business in South Africa. In that meeting, Tambo assured the Americans that their companies would be welcome in a black-ruled South Africa.

History

The ANC was formed in 1912 by a small group of middle class blacks who believed that South Africa's constitution should provide "full and equal rights and privileges . . . without distinction of class, color, or creed." They sought an end to discrimination through moral and political means. They called for a qualified franchise for blacks in which black voters would be required to pass a test based on education, property, or wage qualifications. In 1944, younger members of the ANC grew impatient with the moderate tactics of the organization and its failure to develop into a mass movement. This internal dissatisfaction resulted in the formation of the ANC's Youth League. By 1949, the Youth League had caused the ANC to adopt a new program of militant African nationalism and mass action. The previous year, 1948, the white National Party came to power and instituted the apartheid laws.

By the mid-1950s, an umbrella group called the Congress Alliance was formed. It was composed of various anti-apartheid groups of all races, including the ANC. In 1952, the Alliance organized a Campaign of Defiance of Unjust Laws. About 8,000 blacks and their allies were arrested by the government for peaceful defiance of the apartheid laws. Although the government's actions and the passing of new laws to limit meetings and demonstrations crushed the campaign, the ANC's membership and sympathizers mushroomed.

The Congress Alliance drafted the Freedom Charter in 1955, and it was accepted as a basic policy document by the ANC in 1956. Basically, the Charter demanded a full franchise for South Africans of all races rather than the earlier ANC demand for a qualified franchise.

In March 1960, PAC organized an anti-pass law protest in which the demonstrators were to use non-violent methods. The South African police

opened fire on the demonstrators, killing 67 blacks, including women and children, and wounding 186 others. In May 1961, the ANC, despite being banned in 1960, organized a nation-wide three-day strike to coincide with an inauguration celebration at which South Africa was to be declared a republic. The government reacted to the strike with massive intimidation and the arrest of thousands of blacks, following up with more legislation to suppress dissent. The government's reaction to these two events convinced the ANC that it must either "submit or fight." In June 1961, the ANC decided to fight and created its military wing, Umkonto We Sizwe. Nelson Mandela was made the leader of Umkonto and its first acts of sabotage were staged in December.

In July 1963, Umkonto's leaders were arrested in Rivonia. Nelson Mandela was already serving a five-year sentence after his arrest in 1962. All were tried for sabotage and conspiring to overthrow the South African government. The Rivonia Trial lasted from 1963 to 1964 and resulted in the imprisonment of the ANC's top leadership. The ANC continued to exist, but its popularity gave way to the Black Consciousness movement of the 1970s. This movement emphasized black racial pride and self-reliance. Black Consciousness culminated in the 1976 Soweto school boycotts, demonstrations, and riots. The following year its leader, Steve Biko, died in detention, and numerous anti-apartheid groups were banned.

Beginning in 1978, ANC sabotage activities increased and have continued to grow. ANC popularity among black South Africans appears to have widened as a result of its new visibility. The South African government apparently sees the ANC as a formidable enemy, at least on the political and psychological front. In military terms South African troops far outnumber ANC guerrillas, and the South African Defense Force has a much larger armaments capacity at its disposal. Nevertheless, the South African government's

concern for ANC bases in neighboring countries has compelled it to launch a number of raids into their territories, specifically Mozambique and Lesotho.

X Nelson Mandela

see cytology in BACK.

In recent years, especially since 1980, there has been international pressure for the release of Nelson Mandela from life imprisonment in South Africa. Mr. Mandela, the top official in the ANC until his arrest in 1962, now is seen by many black South Africans as one of the most respected symbols of resistance against the racial discrimination and segregation laws of apartheid.

Mr. Mandela was born in Umtata, Transkei in 1918. He was educated in mission schools and was admitted to Fort Hare University in 1938. After being expelled from Fort Hare for participating in a student strike in 1940, Mandela went to Johannesburg. There he was apprenticed with a firm of white attorneys and continued his education at the University of Witwatersrand. Mandela and Oliver Tambo joined the African National Congress in 1944, and with other ANC members founded the organization's militant Youth League. In 1951, Mandela and Tambo established in Johannesburg the first firm of black attorneys in South Africa.

In 1952, Mandela became the President of the Transvaal branch and the Deputy National President of the ANC. Mandela led over 8,000 people in the Defiance Campaign that year. He was arrested, along with the other demonstrators, but he received a suspended sentence. He was banned from public meetings in 1953 and was prohibited from leaving Johannesburg.

Mandela was again arrested in 1956 and charged with planning to overthrow the South African government. The government based its charges on the ANC's acceptance of the Freedom Charter drafted the previous year. (See

p. 3 for discussion of charter.) The Treason Trial lasted until 1961, when he and all other accused ANC members were acquitted.

Mandela's banning orders expired soon after the Treason Trial ended. He went underground to avoid renewal of the orders. From hiding, he directed the three-day strike called by the ANC in 1961. He traveled abroad in January 1962 to attend a Pan-African conference in Addis Ababa, Ethiopia. During his trip he also visited several African countries and Britain. Mandela was able to evade the police until August 1962, when he was arrested and charged with inciting the 1961 strike and with leaving South Africa illegally. In November of that year he was sentenced to five years imprisonment.

While serving his five-year sentence, Mandela and eight other ANC members were tried on charges of sabotage and conspiracy to overthrow the South African government in the Rivonia Trial, which lasted from July 1963 to 1964. Mandela and all but one of the others were sentenced to life imprisonment. They were imprisoned at Robben Island near Cape Town. In 1982, Mandela was moved to Pollsmoor Maximum Security Prison on the mainland near Cape Town.

Winnie Mandela

Since 1962, Winnie Mandela has been either banned or imprisoned for violations of her banning orders. She was first banned the same year that her husband, Nelson Mandela, was arrested. Mrs. Mandela was never convicted on any charges except violations of her banning orders. She was prosecuted eight times with two convictions for such violations. Her movements were first restricted in Soweto, where she was living at the time. Later, in 1977, she was exiled to a black community near the white village of Brandfort. The village was located in a conservative Afrikaner farming area of the Orange Free State, about 200 miles south of Johannesburg. Under the banning orders

Mrs. Mandela is prohibited from being in the company of more than one person at a time. This means she cannot attend meetings, either social or political. Also, she cannot be quoted in South Africa, she cannot visit educational institutions, and she is confined to her home during evenings (6:00 p.m. to 6:00 a.m.) and Sundays (3:00 p.m. Saturday to 6:00 a.m. Monday). She must obtain permission to leave Brandfort for the purpose of visiting her husband in prison or for any other purpose. When she visits her husband she must use air transportation since she is prohibited from using cheaper buses, trains or cars. During each visit she is allowed only 30 minutes with her husband.

In addition to these restrictions, Winnie Mandela is under constant police surveillance and is frequently harassed by the security police. The latest incident occurred in January 1983, when police charged her with breaking her banning order while two members of Parliament were visiting with her in her home. Police also confiscated several items from her home, including a bedspread. The following March, Members of the U.S. Congress sent a quilt to her to replace the bedspread and to express support for her fight against apartheid. Mrs. Mandela has also been occasionally threatened and attacked by unidentified individuals.

Mrs. Mandela believes that her banning orders and her banishment to Brandfort were calculated to break her spirit. Instead, she has used her training as a social worker to set up a soup kitchen and an unofficial clinic. She has also defied the segregation laws at the supermarket and other Brandfort shops. In November 1982, despite a severe illness, she refused to be treated at the nearby hospital for blacks. Because she was refused admittance to the all-white hospital, her lawyers obtained permission for her to receive treatment at a private multiracial clinic in Johannesburg.

South African officials defend their actions on the grounds that Mrs. Mandela's activities and support of violence undermines the security of the country. According to news reports, she supports the ANC's policy of violence because she believes it is a necessary response to the South African government's use of violence against blacks. She thinks it is too late for evolutionary change in South Africa and violent change is inevitable. Mrs. Mandela disapproves of the new constitution proposed by the government because it eliminates blacks from political participation in the central government. For this reason, she thinks implementation of the constitution will provoke confrontation between blacks and whites. She is a staunch supporter of the ANC's multiracial policy and thinks that the racial separatism of black consciousness is not practical. She supports the United Democratic Front, an umbrella organization founded to oppose the new constitution, and she believes that opposition to the constitution will be a unifying force among South African blacks. Mrs. Mandela says that, in addition to its other activities, the ANC has always advocated divestment from South Africa as a legitimate weapon against apartheid.

July 18,
1918

1944

1947

1949

May 1,
1950

Early 1952

NELSON ROLIHLEHLA MANDELA*
Chronology of his Life

Born in Umatu, Transkei. He had a traditional pastoral childhood as a member of the ruling Tembu Family. Mandela attended a Methodist school then proceeded on to Fort Hare College to study towards a B.A. degree. However, during his third year he was suspected of assisting in the organization of a boycott of the students' representative council, after it had been deprived of its powers by the authorities. Because of a threat for an arranged marriage, he went to Johannesburg. There a friend (and soon to be a long time African National Congress associate) Walter Sisulu, arranged for Nelson to study law.

Mandela joined the African National Congress (which had been formed in 1912) -- the Youth League.

Pact of cooperation between the Presidents of the Transvaal and the Natal Indian Congresses, South Africa's general elections brought Dr. Malan and his Nationalist Party to power. Dr. Malan's party intensified racial oppression and titled it -- apartheid.

ANC challenged this racial policy of apartheid by adopting a Programme of Action laying down new methods of struggle: civil disobedience, strikes, boycotts, etc. The architects were Walter Sisulu, Anton Lembede, Oliver Tambo and Mandela.

Eighteen Africans were killed by Johannesburg police during a demonstration for higher wages.

Mandela was elected president of the ANC Transvaal branch.

*Prepared by Robert Brown, Foreign Affairs Analyst, Central Research Section, Foreign Affairs and National Defense Division.

In Johannesburg, a massive campaign, "Defiance of Unjust Laws," took place under the sponsorship of the South African Indian Congress (SAIC) and the ANC. Mandela and 8,000 others were arrested for defying apartheid laws. Forty-seven leading members from ANC and SAIC were tried and convicted, then given suspended sentences on the conditions that they would not participate in the campaign.

A proclamation was passed which prohibited meetings of more than 10 Africans, and in addition made it an offense for anyone to ask an African to defy the laws. Contravention of this proclamation carried a penalty of 3 years in jail or 300 pound fine.

The government passed the so-called Public Safety Act which empowered it to declare a state of emergency and exercise other powers to suppress domestic anti-apartheid organizations. Almost, simultaneously, the Criminal Law Amendment Act was passed -- this provided for heavy penalties for those convicted of "defiance" offenses. This act also made provision for the whipping of "defiers" (women included). The government also made use of the Suppression of Communism Act.

Mandela was banned from public gatherings. He began expressing his views through his writings. However, he read his Presidential speech to the opening session of the Transvaal's ANC 1953 Annual Conference. In his speech, he lashed out at the government and called for greater action by his members to organize the people to overthrow white oppression. He was subsequently confined to Johannesburg for six months.

South Africa's political police arrested 136 leaders of the ANC, (including Mandela) and its allies, and charged them with high treason -- using the Freedom Charter (or the populist manifesto, which was adopted in 1956 calling for universal suffrage, racial equality, and personal freedoms) as the basis. It was alleged that the ANC planned a revolutionary overthrow.

The ANC and local residents associations organized the Rand and Pretoria bus boycott.

The ANC organized another one-day national strike. (Mandela played a prominent role in all of these activities; he was Volunteer-in-Chief during the 1952 defiance campaign.)

At the ANC's National Conference in Durban, the ANC resolved to conduct on March 30, 1960 a massive nation-wide struggle against pass laws. The government, alarmed by the powerful wave of mass action, declared the ANC illegal. The ANC refused to accept the order and went underground.

The "Sharpeville massacres" -- in which 70 people were killed during a campaign against the pass laws.

Mandela was appointed Commander-in-Chief of Umkhonto We Sizwe (the spear of the nation) -- the military wing of the ANC.

- May 1961 Mandela organized and led a national 3-day strike in opposition to the government's decision to declare South Africa a republic. The strike paralyzed the country on May 29, 30, and 31 -- the day South Africa was declared a republic.
- August to A 90-day Detention Law was passed. All known ANC leading mem-
November 1962 bers (including Mandela) were detained and put into solitary confinement and according to many reports, tortured.
- 1963-1984 After 17 months underground, Mandela -- "The Black Pimpernel" as he was popularly known -- was arrested while on his way from meetings in Natal to Johannesburg. In his trial he was charged on two counts: inciting Africans to strike (3-day strike in May) and leaving the country without proper papers.
- While serving his 5-year sentence, he and some other defendants: Nelson Mandela, Giovan Mbeki, Raymond Mhlaba, Walter Sisulu, Denis Goldberg, Ahmed Kathrada, Rusty Bernstein, Elia Motsoaledi, and Andrew Mlangeni were brought up on sabotage and conspiracy to overthrow the government by revolution charges. This was the famous Rivonia Trial -- the defendants faced a possible death penalty.
- The trial ended 11 months after their initial arrests, and all but Bernstein and Goldberg were sentenced to life imprisonment on Robbin Island. Goldberg was sentenced to life imprisonment in Pretoria, and Bernstein was freed (later to be rearrested). Mandela and other leading ANC members have since been moved to Pollsmoor Prison outside Capetown, where they share a cell. At present Mandela remains in prison.

SOURCES:

Mandela, Nelson. The Struggle is My Life. International Defense and Aid Fund for Southern Africa. London, December 1978

South African Studies, No. 4. Nelson Mandela Speaks. Publicity and Information Bureau, ANC, 1970.

POLITICAL IMPRISONMENT IN SOUTH AFRICA

*Transitional Justice
g. Torture on South
Africa - Christian
Institute*

An Amnesty International Report

First published 1978 by Amnesty International Publications
10 Southampton Street, London WC2E 7HF, England
• Copyright Amnesty International Publications
ISBN 0 900058 70 6
AI Index: PUB 81/00/78
Original Language: English
Printed in the United States of America.
Design by Judith Anderson

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Apartheid and Human Rights

10

Introduction

The South African Government may be expected to respond to report in two ways. They may attempt to raise doubts about integrity of Amnesty International by attacking the reasons for publishing this report and by demanding that attention is turned from human rights violations in black African countries—they may be expected to ignore or minimise the work that Amnesty International is doing in this field. The South African authorities may declare the report an “undesirable” publication so as to ensure that it does not become readily available to the South African people. This would be particularly regrettable since the information contained in it should be of vital interest and concern to all South Africans. It is in the name of all South Africans, and not only of the ruling white minority, that countless individuals have been subjected to arbitrary imprisonment, torture, or death at the hands of the State. They have a right to know what is done in their name.

The primary reason for the publication of this report is Amnesty International's deep concern about the plight of political prisoners in South Africa. It is necessary to inform a wider public of the suffering and hardships endured by South Africa's political prisoners in the hope that more people will understand the reasons for their actions and appreciate the values which they uphold.

The report is mainly about people who have been imprisoned for their conscientious opposition to *apartheid*, rather than about those who might be termed victims of *apartheid*. The latter category includes those convicted and imprisoned for contraventions of the country's discriminatory racial legislation, such as the pass laws and the Immorality Act.

The report describes the legal structure created by the South African Government to consolidate white political power and so to maintain economic privileges, and to prevent the formation of effective black political opposition. Within such a structure it is inevitable that individuals will be imprisoned for reasons of conscience.

The publication documents the major aspects of political imprisonment—the system of detention without trial, the widespread use of torture, the treatment of convicted political prisoners and banishment.

and banished people—but it makes no recommendations. Certainly, material improvements are desperately required in many areas to protect prisoners from physical ill-treatment, but Amnesty International believes that no reforms in the present structure will be sufficiently far-reaching to remove the causes of political imprisonment unless the whole system of *apartheid* is dismantled. It is to be hoped that this report will help to generate international pressure to achieve this end. While *apartheid* remains, there can be no structure which conforms with and guarantees universally recognised standards of human rights. In 1973, the United Nations General Assembly declared *apartheid* a “Crime against Humanity”.

South Africa in Outline

South Africa has a total land area of approximately 750,000 square kilometres. It is bordered by Swaziland and Mozambique to the north-east, Rhodesia to the north and Botswana and Namibia to the north-west. Namibia continues to be administered by South Africa in defiance of the United Nations. The independent Kingdom of Lesotho is an enclave within South Africa.

The population in South Africa in 1976 was estimated to be 26 million, with an annual growth rate of 3.3 per cent. The ethnic balance of the population is:

African	72.5%
Coloured	9.0%
Indian	2.5%
European (i.e. white)	16.0%

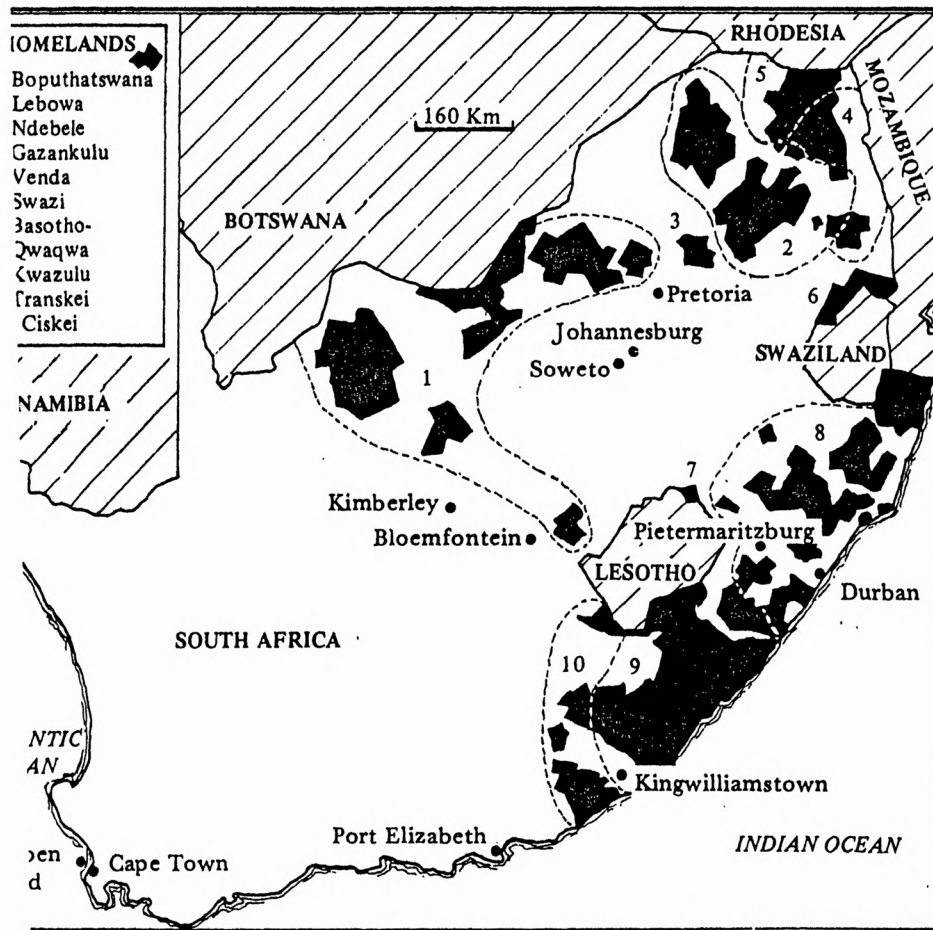
Despite this extreme racial imbalance, approximately 87 per cent of the total land area, including all major urban and industrial centres, is reserved for occupation by the white minority. The remaining 13 per cent is allocated for black settlement and divided up in accordance with the South African Government's *apartheid* policies to form 10 African "homelands". In October 1976, the Transkei homeland was declared "independent" but it has not been accorded international recognition by any country except South Africa. Bophuthatswana, the homeland for Tswana-speaking people, was declared "independent" in December 1977. However, at present approximately half the total black population lives in the area reserved for white occupation, where blacks have no political rights. Blacks are only permitted political rights in their respective homelands.

The white minority exercises effective governmental authority. The franchise is exclusive to whites. Parliament consists of a 165 member, lower House of Assembly and a 51-seat upper house or Senate. Representative Councils are appointed by the Government to supervise the affairs of the Coloured and Indian communities. However, in late 1977 the Government was considering constitutional changes which would result in the appointment of an executive president as head of state, and the creation of separate parliaments for the white,

Indian and Coloured groups from which a joint cabinet would be formed under white leadership.

The economy is based on the country's natural resources – gold, iron, diamonds and most other minerals with the exception of oil. The mining sector depends for its profitability on the large African labour force and has provided the stimulus for considerable industrial development. Agriculture is also important, with fruit and maize production predominant. Main trading links are with West Germany, France, the United States, the United Kingdom and Japan.

In 1961 South Africa became a republic and left the Commonwealth of Nations. South Africa is a member of the United Nations, although it has been condemned by the UN for continuing unlawfully to administer Namibia, for supporting the illegal Rhodesian Front regime in Rhodesia, and for its own *apartheid* policies.



The Political Background

i) Early history to the formation of the Union, 1910

The area of present day South Africa had been inhabited for at least several centuries before the first permanent white settlement was established by the Dutch East India Company in 1652 on the site of what is today modern Cape Town. The Khoikhoi people and the San, commonly known as Bushmen, inhabited the Cape area, while further north the more numerous Bantu-speaking peoples lived in relatively complex political societies. The combined effects of aggressive white expansionism and exposure to alien diseases resulted in the decimation of the Khoikhoi population, its remnant being absorbed into what became called the Cape Coloured Group. This group, now known simply as the "Coloured" group, consists primarily of people whose ancestors were the result of miscegenation between white settlers and Khoikhoi or other "non-white" groups. The San, too, were decimated as a result of increasing contact with white settlers and Bantu-speaking groups.

The area of white settlement expanded slowly at first but more rapidly in the first half of the 19th century to culminate in the Great Trek. This commenced in the mid-1830s and continued for several years. The mass exodus of Dutch settlers—Afrikaners—from Cape Colony to the highveld north of the Orange River, and the coastal plain of Natal, was caused originally by hunger for more land due to natural population increase but gained impetus from disillusionment with British colonial rule established in the Cape in 1806. White expansion during the previous two centuries had resulted in a racially stratified society. The British, however, stirred Afrikaner resentment by the abolition of slavery but, most importantly, by attempts to provide equality before the law to all inhabitants of the Colony regardless of colour.

White expansion to lands outside British control brought increased contact with Bantu-speaking groups who were better organised than the San or Khoikhoi and so more able to withstand white settler pressure. White domination was not effected over the Xhosa of the eastern Cape until the late 19th century, and then only after a series of "frontier wars" and the involvement of military forces

sent from Britain. Large-scale British military intervention was also required to break the power of the Zulu kingdom in Natal.

North of the Orange river, however, the Trekkers generally found it easier to establish white control as their arrival coincided with the end of the *Mfecane*, a series of tribal wars and migrations which had caused widespread depopulation on the highveld. The Trekkers thus occupied much of the vacant highveld and formed uneasy relationships with Bantu-speaking groups now concentrated in more easily defended areas around the fringes of the highveld. These groups—the Tswana, Pedi, Venda, Sotho—were gradually subjugated in turn either by the settlers or by British colonial power until, by the end of the 19th century, white domination had been extended almost throughout the entire area of modern South Africa.

The Great Trek resulted in the formation of two independent Afrikaner republics, the Orange Free State and Transvaal, as well as the new British colony of Natal. In each of these, as in Cape Colony, a racially stratified society developed with whites assuming a position of dominance and the indigenous African population being relegated to serf-like status. In the Cape and Natal the declared policy of the British was to make no discrimination on grounds of colour or race. In practice, however, a property qualification restricted the franchise largely to whites. After the granting of representative self-government in the 1850s, communities in the Cape and Natal were able further to disenfranchise the black population by raising such property qualifications and making them more exclusive.

In the Afrikaner republics, Africans were denied the franchise from the outset, debarred from acquiring ownership of land in the Free State and obliged to carry passes when in the white-occupied areas of the Transvaal.¹ The strong Calvinist views of the white settlers, from which they derived a belief in their own racial superiority, ensured that the lines of racial stratification were even more sharply drawn in the republics than in areas of British control.

The discovery of diamonds at Kimberley and large gold deposits in the Transvaal at the end of the 19th century touched off an economic revolution and began the process of change whereby a predominantly agricultural economy became one based on mining and industry. The pattern of white settlement changed as large influxes of gold and diamond prospectors from Europe led to the rapid development of Johannesburg and Kimberley. The discoveries led to increased competition between the Afrikaner republics on the

¹ A pass was a form of regional passport purchased from the white authorities. These have since been transformed into documents which severely restrict the movement of Africans. They must be carried at all times and produced on demand.

one hand and the two British colonies and British Government on the other, contributing to the tension that led to the outbreak of the Boer War in 1899. By 1902 the two Afrikaner republics had been brought under full British rule and eight years later, in 1910, they were united with Cape Colony and Natal to form the Union of South Africa, a virtually independent state with dominion status under the British Crown.

The discovery of minerals had far-reaching effects on the African population. Large numbers of Africans were drawn to the diamond diggings or gold mines to work as migrant labourers which led among other things to the weakening of traditional tribal affiliations. Africans became the major part of the labour force and thus a vital factor in determining the course and rate of industrial development.

ii) The consolidation of white rule, 1910-1977

The period since the formation of the Union in 1910 has seen the progressive disenfranchisement of the black majority population and the consolidation of white political control throughout South Africa. It has also been marked by increased social stratification on racial lines as extraordinary measures have been implemented to preserve the superior social and economic status enjoyed by the white population. Both these trends have been particularly evident in the past 30 years while the National Party has been continuously in power.

The creation of the Union reaffirmed the political supremacy of the white population. Blacks were not consulted over the form of the Union Constitution, nor were their protests heeded by the British Parliament responsible for enacting the Union. Consequently, the franchise was restricted to whites except in Cape Province where existing black voting rights were confirmed and protected by a stipulation that any reduction in such rights would require a two-thirds majority of the South African Parliament. Subsequent events, however, steadily eroded the influence of even these black voters. First, white women were given the vote in 1930. Then, in 1936, Africans were removed from the common voters' roll in the Cape by the introduction of the Representation of Natives Act, which was passed by the necessary two-thirds majority of Parliament. Under this law Cape Africans who qualified for the franchise were placed on a separate voters' roll and entitled to elect three white members to the House of Assembly. Africans throughout South Africa were entitled to elect four white representatives to the Senate, then a 48-seat upper house. Even this minimal form of parliamentary representation was abolished in 1959 when the Promotion of Bantu Self-Government Act was introduced to establish territorial, regional,

and tribal authorities in the various "homelands" designated for African occupation.

Coloured voters in the Cape were similarly removed from the common voters' roll in 1956. They were then allowed to elect four white representatives to the House of Assembly until this provision too was abolished in 1968. It is only the white population, therefore, that is now represented in the Parliament, South Africa's supreme legislative authority.

Having been denied a role in the mainstream of politics, blacks have been provided with a series of lesser institutions which are supposed to represent their various interests. Thus, the Coloured and Asian communities have been granted Representative Councils which act in an advisory capacity to the Government. Africans, on the other hand, have been subdivided into tribal groupings and provided with territorial authorities possessing limited powers of self-government in the areas designated as "homelands". Africans who live outside these areas, however, who comprise an estimated half of the total African population, have no political representation whatsoever in the urban areas in which they live. Under the system of *apartheid*, or separate development, introduced since 1948, any rights that Africans may have as citizens can be exercised only within their respective "homelands". This was made abundantly plain in October 1976, when the South African Government declared the Transkei homeland "independent". Many Xhosa-speaking Africans resident in Soweto and other urban areas were then summarily deprived of their South African citizenship and told that they would henceforth be considered Transkeian nationals.

South Africa passed from a dominion under the British Crown to a "sovereign independent state" within the British Empire after the Status of the Union Act in 1934. Then, in 1961, the link with Great Britain was broken when South Africa became a Republic and left the Commonwealth. The decision to introduce a Republican Constitution followed a referendum in which only the white population was consulted.

By maintaining political power, the white minority group has been able to safeguard its privileged economic and social position through manipulation of the mechanisms of State. A disproportionately small share of the State's resources has been devoted to the black community, and numerous laws have been introduced to limit black advancement in all spheres. A system of job reservation has been introduced to prevent blacks competing for employment on an equal basis with whites, and discriminatory labour legislation has stifled the emergence of black trade unions. Priority in educational spending

has been given to whites; blacks are educated to occupy a subservient role. Blacks have been denied permanent residence rights in the greater part of the country as a result of the Group Areas Act of 1953. This divided South Africa into a series of racial or ethnic "homelands", in each of which the members of one particular racial or ethnic group were given land ownership rights. According to this division, which was of course decided upon by a government representing only the white minority population, some 87 per cent of the total land area was reserved for white occupation. Within that area, which includes the main mining and industrial complexes, Africans are not permitted to own land, to move about freely, and must carry identity documents—pass reference books—at all times.

Many of these discriminatory features were in evidence in the period 1910-1948. However, they were made much more distinct after the National Party assumed power in 1948 and commenced with the introduction of its *apartheid* program. This requires the complete separation of the different population groups and theoretically seeks to limit inter-racial contact. In fact, it ensures that effective power throughout South Africa remains in the hands of the white minority population, which is then able to use this power in order to preserve its dominant social and economic status.

iii) African political opposition

Since the first years of white settlement at the Cape, African tribal groups had firmly resisted encroachment and the extension of white political control. However, they had resisted as separate tribal entities rather than as one people united by a common cultural and linguistic background. Only after the formation of a unitary state in South Africa early in the 20th century did African resistance to white rule begin to be organized on cross-tribal and more clearly nationalist lines. Indeed, it was the formation of the Union in 1910 that gave the first significant impetus to the development of a supra-tribal form of African nationalism.

At first, this form of African nationalism had widest appeal within the small but significant African middle class which had developed in the urban and industrial areas of the Cape and Transvaal. In 1912, these elements grouped together to form a national political organization which would represent African interests. The organization was first named the South African Native National Congress, but was renamed the African National Congress (ANC) in 1923.

The Congress was by no means a radical political force in its formative years. Its activities were designed to effect improvements in the social status of western-educated Africans rather than to articulate

the grievances of the majority of the black population. Nevertheless, it did voice African concern over the introduction of measures such as the Native Land Act of 1913, which denied Africans the rights to purchase land outside their designated reserves, and the Representation of Natives Act of 1936, which removed Africans from the common voters' roll in the Cape. It was not until after World War II, and especially until the National Party took power in 1948 and began to implement *apartheid*, that the ANC developed an overtly political program and received mass support.

In 1952, the ANC joined with the South African Indian Congress to organize a mass campaign of passive resistance and defiance against discriminatory and unjust laws. Many blacks, and some whites, purposely contravened such laws and presented themselves for arrest. The Government responded, despite the non-violent nature of the campaign, by imprisoning more than 8,000 people. After sporadic violence had broken out in the Eastern Cape, the Government rushed through emergency measures which were used to suppress the campaign. Despite this the ANC and other anti-*apartheid* organizations continued to press for change through non-violent methods. In 1955 a Freedom Charter was drawn up by the ANC, the white Congress of Democrats and by Congress organizations representing the Asian and Coloured peoples. The Government responded by arresting more than 150 leaders of these organizations in December 1956. They were all charged with plotting the overthrow of the State and brought to trial in Pretoria. Their trial, commonly known as the Treason Trial, continued until 1961 when all the accused were acquitted. While the trial was still in progress, disillusionment with the achievements gained by the ANC's policy of cooperation with other anti-*apartheid* organizations, caused a faction, led by Robert Sobukwe, then a leading member of the ANC, to break away and form the Pan-Africanist Congress (PAC).

Throughout the 1950s there were sporadic instances of African resistance to the implementation of various *apartheid* measures. Such incidents were particularly evident in certain rural areas, such as the Marico District of the western Transvaal, where there was great resistance in 1957 to the introduction of pass books for women, and in Eastern Pondoland in 1960, where there was even more concerted and violent opposition to the imposition of African territorial and regional authorities.

The transition by the ANC and PAC from a non-violent to a violent strategy occurred in the early 1960s. At Sharpeville in March 1960, police opened fire without provocation upon a crowd of unarmed Africans demonstrating against the restrictive pass laws. Altogether

69 Africans were killed, many of them being shot in the back as they tried to escape. Protest demonstrations occurred throughout South Africa but were met by the introduction of further emergency measures and by the banning of the ANC and PAC. Robert Sobukwe, the PAC leader, was arrested and imprisoned. These experiences convinced many black political leaders that change could only be brought about by violent means. They formed two secret organizations, Umkhonto we Sizwe and Poqo, to act as the military wing of the underground nationalist movement. These organizations engaged in acts of sabotage against white property but were largely destroyed following the "Rivonia Trial" in 1963 when Nelson Mandela and other nationalist leaders were imprisoned. Mandela, who used the trial as an occasion to present a formidable indictment of *apartheid*, was sentenced to life imprisonment. The headquarters of the ANC were then established outside South Africa, and the organization commenced an armed struggle for the overthrow of white minority rule.

The political vacuum left by the banning of the ANC and PAC was to some extent filled in the early 1970s with the development of the Black Consciousness movement. This movement, which stresses the need for black solidarity in order to achieve a stronger bargaining position with the white minority, received widespread support among young, educated blacks, and particularly those living in the major urban areas. The black South African Students' Organization (SASO) took the lead together with the Black People's Convention (BPC) in stimulating the development of black self-help, self-education and community programs. The organizations which dominated the movement were not suppressed immediately by the Government, but many of the leaders were subjected to banning, detention and imprisonment. In spite of this, and perhaps partly as a result, the Black Consciousness movement achieved considerable support and had become a major factor in South African politics when the Soweto disturbances broke out in June 1976. In October 1977, the South African Government arbitrarily banned SASO, the BPC, and some 16 other Black Consciousness organizations together with the anti-*apartheid* Christian Institute of Southern Africa.



Dr Neville Alexander

Dr Neville Alexander

Dr Neville Alexander, 40, was convicted under the Sabotage Act and, although he was not found to have used or committed violence, was sentenced to 10 years' imprisonment in April 1964.

As in all cases of convicted political prisoners in South Africa, Dr Alexander was denied parole and remission of sentence. He was imprisoned on Robben Island, South Africa's maximum security prison for political prisoners, for the full 10 years of his sentence and released on 13 April 1974. On that day, he was served with a five-year banning order, imposed by the Minister of Justice under the Suppression of Communism Act, on the grounds that he had engaged in "activities which are furthering or may attempt to further the achievement of the objects of communism". The banning order was signed by the Minister five days before Dr Alexander's release.

Dr Alexander appealed to the Supreme Court to order the Minister to reveal the specific reasons for the imposition of the banning order. He claimed that he had been under 24-hour surveillance while imprisoned on Robben Island and could not therefore have been engaged in any subversive activities. He claimed that any information against him which the Minister possessed must relate to the period prior to his arrest in 1963, and that such information must already have been used to secure his prosecution. The banning order therefore effectively imposed an additional sentence to that passed by the court of law that originally tried his case. He told the High Court that the banning restrictions placed upon him had a "profound and upsetting" effect. He added:

"The many predicaments in which I am placed as a result of my restrictions are arduous and the conditions are stifling . . . these restrictions constitute a drastic inroad into my liberties. If this inroad is not justified and lawful, it is imperative and urgent that it be removed. I have, as I have said, paid my penalty to the full."

The High Court decided, however, that it had no jurisdiction over the imposition of the banning order.

Dr Alexander has a most distinguished academic record. He studied at the University of Cape Town and in 1961 obtained a Doctorate of Philosophy from the University of Tübingen in West Germany. At the time of his arrest in 1963, he was a senior teacher in a Cape Town high school and a part-time lecturer in German at the University of Cape Town. The terms of his banning order prohibited Dr Alexander from entering any university or other educational institute. Since his release from Robben Island, he has worked in a grocery store.



• WINNIE
MANDALA
WINNIE
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MANDALA

Nonzamo Winnie Mandela

Nonzamo Winnie Mandela

Winnie Mandela, one of the best-known leaders of black opinion in South Africa, has suffered a long history of political persecution. The wife of Nelson Mandela, the ANC leader now serving a sentence of life imprisonment under maximum security on Robben Island, Winnie Mandela is a major political figure in her own right.

In 1969 Winnie Mandela and 21 others were charged under the Suppression of Communism Act. They were alleged to have undertaken activities on behalf of the ANC, which had been a banned organization since 1960. During the course of the trial, various defendants and State witnesses alleged torture and ill-treatment by security police, and the State withdrew all charges against the 22 accused in February 1970. However, before they could leave the court, they were all re-detained under Section 6 of the Terrorism Act. In May, all but three of the detainees were again charged, this time under the Terrorism Act. They were acquitted in September but Winnie Mandela was then placed under house-arrest and other restrictions under a five-year banning order.

Winnie Mandela was constantly harassed and intimidated by the security police. She was charged on several occasions with contravening the terms of her banning order and was jailed for six months for this offence in October 1974.

Winnie Mandela's banning order was not re-imposed by Minister of Justice James Kruger when it expired in September 1975. However, following the outbreak of disturbances in Soweto, Winnie Mandela was detained under the preventive detention clause of the Internal Security Act on 13 August 1976. She was held, together with other women detainees, at the Fort Prison in Johannesburg until the end of December 1976. At the time of her release, a new five-year banning order was imposed by the Minister of Justice to restrict her once again to the Soweto area. In May 1977, the terms of this banning order were amended by the Minister to provide for her restriction to the small town of Brandfort in the Orange Free State, some 350 kilometres from her home in Soweto. In September 1977, Winnie Mandela faced several charges of contravening the terms of her banning order.

Winnie and Nelson Mandela have two daughters.



Lilian Mazediba Ngoyi

Lilian Mazediba Ngoyi

Lilian Ngoyi became a prominent figure in South African politics during the 1950s. She was appointed President of the Women's League of the ANC in 1954 and also became President of the Federation of South African Women. Both organizations were in the forefront of the African nationalist struggle against the implementation of *apartheid* and because of her role in them she was subjected to considerable harassment and intimidation by the South African authorities. She was one of the accused in the so-called "Treason Trial" held in Pretoria from 1956 to 1961 and, like all the other accused, she was acquitted. In 1960, following the declaration of a State of Emergency in South Africa, she was detained without trial for a period of five months.

In 1962 she was prohibited from attending political or social gatherings by a banning order issued under the terms of the Suppression of Communism Act. In 1963 she was again detained without trial for a period of 71 days. The same year the terms of her banning order were amended in order to restrict her to Orlando township, Soweto, a restriction which forced her to give up her employment as a skilled garment worker. When Lilian Ngoyi's banning order expired in 1967 it was immediately re-imposed for a further period of five years. However, the second banning order was allowed to expire in November 1972. For a relatively brief period of two and a half years, Lilian Ngoyi was able to resume a normal life. She could talk to whom she wished and engage in the other social activities which are normally denied to banned people.

In May 1975 however, a new five-year banning order was imposed on her. As with all banning orders, the Minister of Justice gave no specific reason for the imposition of restrictions; it was merely stated that she had been engaged in activities likely to further the aims of communism.



Barney Nyameko Pityana

Barney Nyameko Pityana

Barney Nyameko Pityana, 32, was banned for five years under the Suppression of Communism Act in February 1973. He was then full-time Secretary-General of the black South African Students' Organization (SASO), one of the main organizations of the Black Consciousness movement. Steve Biko and several other Black Consciousness movement leaders were banned at the same time.

In October 1974, Barney Pityana was one of more than 40 Black Consciousness leaders arrested following an attempt to hold political rallies in Durban. He was detained without charge under Section 6 of the Terrorism Act and held incommunicado for a period of 166 days before being released, still uncharged, in April 1975. Following the outbreak of civil unrest in Soweto in mid-1976, Barney Pityana was again detained without charge, this time under the preventive detention provisions of the Internal Security Act. He was released on 20 December 1976 after 130 days in detention. He was re-detained under the Terrorism Act in August 1977.

Under the terms of his banning order, Barney Pityana was specifically prevented from continuing his activities on behalf of SASO and was prohibited from having any further contact with Steve Biko and other Black Consciousness movement leaders. He was placed under partial house-arrest and restricted to the Port Elizabeth area. In all, his banning order has 30 restrictions and conditions attached to it, the contravention of any one of which can result in a prison sentence.

Barney Pityana has defied his banning order and risked imprisonment on several occasions. In November 1975 for example, he was found to have contravened the terms of his banning order by allowing his younger brother and sister to visit him on four occasions. He was warned by a magistrate that his "attitude of defiance" would lead him into serious trouble with the authorities, but received a suspended sentence as he had recently been released after a prolonged period in detention.

Barney Pityana is married and has one child. His wife, Dimza, was also banned for five years in April 1977. As a result of this, and because banned people are allowed no contact, she had to obtain a special dispensation from the Minister of Justice to be able to communicate with her husband. Dimza Pityana had previously been detained without trial for two substantial periods. Firstly she was held without charge under the Terrorism Act for more than 70 days before being released on 13 August 1976. Five days later, she was re-detained without trial for a further four months. Dimza Pityana now works for the Dependents' Conference of the South African Council of Churches and is the sole supporter of the family.

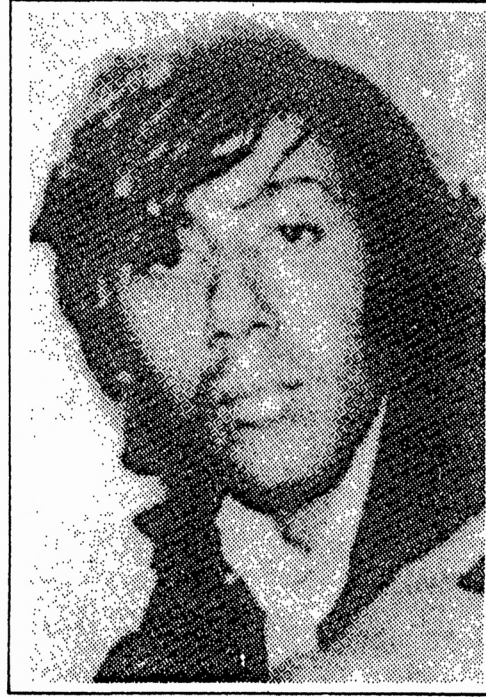


Dr Mamphela Ramphele

Dr Mamphela Ramphele

Dr Mamphela Ramphele, 29, was banned for five years under the Internal Security Act in April 1977. At that time, Dr Ramphele was a superintendent of the Zanempilo Clinic near Kingwilliamstown. This clinic was established under the auspices of the Black Community Programmes, a part of the Black Consciousness movement, to provide medical care for Africans living in the eastern Cape area. Under the terms of her banning order, Dr Ramphele was restricted to a village near Tzaneen in the northern Transvaal, more than one thousand kilometres from her home in Kingwilliamstown. The Government's decision to ban Dr Ramphele aroused considerable criticism both from the black community and from the opposition Progressive Federal Party. Even so, in early May the Minister of Justice, James Kruger, refused to disclose in parliament his reasons for imposing the banning order.

Earlier, in 1976, Dr Ramphele had been detained without trial after attending a post-mortem examination of the body of Mapetla Mohapi, a close friend and organizer of the South African Students' Organization (SASO), who was alleged to have hanged himself on 5 August 1976 while in security police custody at Kingwilliamstown. It was widely suggested that Mapetla Mohapi had died as a result of security police torture and then been hanged to fake a suicide. Dr Ramphele was held without charge under the Internal Security Act until the end of December 1976, altogether a period of almost five months.



Strinivasa Rajoo Moodley

Strinivasa Rajoo Moodley

Strini Moodley, 31, was the publications director of the South African Students' Organization (SASO) when he was banned, together with several other Black Consciousness movement leaders, in February 1973. Before that he had been active in student politics and in 1967 was summarily expelled from the University of Durban/Westville where he had been studying for a degree in English and drama. He then became involved with the Theatre Council of Natal (TECON), a Black Consciousness organization which promoted cultural awareness among black people.

He was detained without charge under the Terrorism Act together with many other Black Consciousness movement leaders in October 1974. In early 1975, he and 12 other detainees were charged with offences under the Terrorism Act which related to their activities in the Black Consciousness movement. It was alleged by the State that, by attempting to promote a spirit of black consciousness, the 13 defendants had sought to bring about racial confrontation and endanger the maintenance of law and order in South Africa. The trial, commonly known as the "SASO/BPC Trial", was not concluded until December 1976, more than two years after they had been detained. Four defendants were acquitted and discharged during the proceedings but Strini Moodley and eight other accused were convicted and sentenced to terms of five and six years' imprisonment, Strini Moodley himself being sentenced to five years. All were refused leave to appeal.

Immediately after being convicted, the nine SASO/BPC leaders were removed to Robben Island, South Africa's main maximum security prison for political prisoners. In February 1977, Amnesty International received information concerning an incident on Robben Island where Strini Moodley and a group of other prisoners were assaulted by prison staff.

Strini Moodley is married and has one child. His wife, Sumboornam, is also restricted under a five-year banning order which was imposed in July 1973. Sumboornam Moodley lives in Durban, more than one thousand kilometres from Robben Island.



Tenjiwe Ethel Mtintso

Tenjiwe Ethel Mtintso

At the time of her arrest in August 1976 Tenjiwe Mtintso was working as a reporter for the East London Daily Dispatch, a leading English-language newspaper. She was also a member of the Black Community Programmes and a close associate of Steve Biko and other Black Consciousness movement leaders in the Eastern Cape area.

Tenjiwe Mtintso was detained without charge under the Internal Security Act until late-December 1976. Upon release, she was immediately banned for five years and restricted to Soweto, although prior to her detention she had lived and worked in East London, some 600 kilometres away. As a banned person she cannot be quoted in any way and has therefore been forced to give up her career as a journalist. The editor of the East London Daily Dispatch, Donald Woods, was himself banned for five years in October 1977.

In March 1977, Tenjiwe Mtintso appeared at an inquest into the death in detention of Mapetla Mohapi (a prominent member of the Black Consciousness movement) and gave evidence concerning her own experiences in security police custody. She said that after her arrest at Kingwilliamstown she was punched in the face and kicked by members of the security police. Later she was interrogated by Captain Hansen, head of the security police in Kingwilliamstown. She was again slapped and punched, and was made to stand for three days and nights during which she was allowed no food, drink or toilet facilities. In September, she was taken to Kei Road police station in Kingwilliamstown, where Mapetla Mohapi had been in custody at the time of his death. It was there, she alleged, that Captain Hansen and another security police officer had placed a wet towel round her face causing partial suffocation. This happened three times. Tenjiwe Mtintso alleges that she was told by Captain Hansen "now you see how Mapetla died". Tenjiwe Mtintso also alleged that while she was in detention the security police had told her, falsely, that her own child had died.

Treatment of Prisoners

i) Torture and Deaths in Detention

To accuse any government of sanctioning the torture of its own citizens is a most serious matter; it is not a charge which Amnesty International would make lightly. However, Amnesty International is convinced that such a charge against South Africa is fully justified. All the evidence indicates that torture is extensively inflicted on political detainees, and that the Government sanctions its use.

Throughout the past 15 years, ~~Amnesty International~~ has received many consistent and substantial allegations about the torture of political detainees during interrogation by South African security police. They concern not only detainees in South Africa but also people detained for political reasons in Namibia. Amnesty International has repeatedly drawn the South African Government's attention to these allegations and has urged it to conduct an independent inquiry into detainees' complaints. Similar representations have been made by many other international organizations, also by the press, the churches and individual community leaders within South Africa itself. The result has always been the same. Successive South African Ministers of Justice have invariably stated that such allegations of torture are groundless, mere fabrications put forward as part of some communist plot to undermine morale in South Africa. They have declined to set up any independent, effective inquiry. For example, in February 1977, when challenged to explain why at least 11 political detainees had died in security police custody during the previous 11 months, Minister of Justice James Kruger suggested in the House of Assembly that political detainees committed suicide on instructions from the banned ANC and Communist Party of South Africa.¹

The pattern that emerges, on examining the available evidence, is one of torture being used almost on a routine basis by security police and where the Government, by failing to remedy the situation, appears to condone the practice. The unsurprising result of allowing the security police to proceed unchecked is that from time to time

¹ From the *Guardian*, London, 21 January, 1977.

they appear to have got out of control and to have been responsible for the deaths of detainees in their custody. This certainly appears to have been the case with Joseph Mdluli, who died within hours of his detention by Durban security police in March 1976, also perhaps in the cases of several other political detainees who died in security police custody.

Ultimate responsibility for those deaths, and for the torture of other political detainees, lies not with the security police but with the Government, particularly the Minister of Justice. It was therefore somewhat ironic when, as a result of the widespread international protest following the death in detention of the Black Consciousness leader Steve Biko in September 1977, Minister of Justice James Kruger threatened that "heads will roll" if any member of the security police is found to have been negligent. It was he, after all, who had steadfastly refused to draw the obvious conclusions about security police misconduct from information given to him by the press, and from the results of a series of inquests, after the deaths in custody of at least 20 political detainees during the previous 18 months.

A) *Allegations of torture*

Numerous allegations of torture have been made against the South African security police in recent years. Such claims have been made by former political detainees and by defendants and State witnesses at political trials. Almost invariably, the individuals concerned have alleged that they were tortured during interrogation by security police, who were trying to extract false "confessions" from them, or statements incriminating others whom the authorities intended to prosecute.

The frequency of these allegations, also the fact that a number of released detainees bore scars and abrasions suggest that the allegations are true. Nat Serache, a black journalist who fled to Botswana in April 1977 shortly after being released from detention in Johannesburg, was found by a doctor in Gaborone to have injuries which supported his assertion that he had been subjected to physical assault and electric shock torture. Bruises and abrasions were similarly found on the bodies of several other political detainees who died in security police custody in 1976-77, suggesting that they too had been assaulted while in detention.

The detainees' torture claims are strengthened by the nature of the laws under which most of them are held. Section 6 of the Terrorism Act, which is widely used, is, as has already been said, a law which would appear to invite, or even incite, security police ill-treatment

of detainees. People detained under this Act are left entirely in the care of the security police. They are denied access to close relatives or legal representatives and may be held for indefinite periods. They are also completely outside the jurisdiction of the courts. On several occasions, relatives of detainees, concerned about their safety and by reports of ill-treatment, have tried to obtain Supreme Court injunctions prohibiting the security police from further interrogating, assaulting or molesting particular detainees. In late 1974, such an attempt was made by relatives of five members of the South African Students' Organization who had been detained two months before. They were unsuccessful, as was the wife of Harold Nxasana, who made a similar application to the Durban Supreme Court in April 1976. She claimed that her husband had been severely assaulted and urged that an independent medical practitioner and the Chief Magistrate be allowed to visit him and report their findings to the court. This request was refused after several members of the security police testified in court that Harold Nxasana had not been ill-treated. However, the security police did not produce him in court, just as they had not produced the SASO detainees in November 1974, although this would seem to have been the most obvious way to assess the validity of the torture allegations.

Various methods of torture have been alleged: these include physical attacks, and beatings, the application of electric shocks to the body, being made to stand for long periods, wearing shoes containing small stones and to assume a sitting position—the "invisible chair"—for several hours at a time. Many former detainees have also alleged that they were subjected to murder threats, to threats against members of their families, to prolonged interrogation, sleep deprivation, and psychological disorientation through long-term solitary confinement.

It would be impossible, within the confines of this report, to describe every case in which former detainees have alleged torture by South African security police. However, some indication can be given of the ways in which detainees have been ill-treated while in security police custody by quoting extracts from statements made by former political detainees. These are not the only such statements in the possession of Amnesty International; they are merely typical of many detainees' claims.

1. *Statement by Strini Moodley.* Strini Moodley, a leading member of the Black Consciousness movement, was detained under Section 6 of the Terrorism Act in October 1974. After three months in detention, he was charged under this Act together with 12 others and brought to trial in the Pretoria Supreme Court. The trial concluded

in December 1976, when he and eight others were convicted and sentenced to five and six years' imprisonment, Strini Moodley receiving five years. In an affidavit prepared in February 1975, Strini Moodley described his experiences in detention in the following way:

"We arrived at the headquarters and I was taken into one of the interrogation rooms where Mr Welman began to threaten me. He said that I had not told the truth and he was going to beat the truth out of me. The said Mr Welman then clouted me with the palm of his hand and forced me to crouch against the wall. With my back to the wall, in a sitting position, my knees together and my hands on my head, I was made to remain in that position for a long period.

During this time two other members of the security police came into the room and they together with Mr Welman began to physically assault me. I was kicked on my buttocks continually, punched about the body and clouted with open palms about the face and sides of my head. Every time I was dragged up by the hair. At one stage I fell and I was kicked and punched continually in my back. The entire assault went on intermittently for about two hours.

Although I do not know the names of the two security policemen I can identify them.

While I was being interrogated during December, at Security Branch headquarters I saw Sylvia Mbandla. She was in a different room and I heard her being beaten up. She was screaming and someone was saying 'Talk, talk'.

I also saw Menziwe Mbeo at the Security Branch headquarters during December, and at one stage heard him being beaten up in one of the other interrogation rooms."

2) *Statement by Dr Aubrey Mokoape.* Dr Mokoape, like Strini Moodley, was a leading member of the Black Consciousness movement at the time of his arrest under Section 6 of the Terrorism Act in October 1974. He stood trial with Strini Moodley and is at present imprisoned on Robben Island. He made the following statement in an affidavit prepared in February 1975:

"I was interrogated by about eight security police, among them was Major Stadler, Messrs. Kruger, van Wyk, Marx, Capt. Welman. All eight or so policemen were present for the great part of six hours interrogation. At every stage when Major Stadler was not present the other police threatened and intimidated me. Mr Marx and Mr van Wyk made me stand up from the chair and the latter said he was not worried about a clever kaffir, that every kaffir is a kaffir and as such must be made to defecate (*kak*). Mr Marx told

me that he would hit me to death if I did not tell him the truth. He stood menacingly in front of me with clenched fists. He held me by my left shoulder and shook me violently. He alleged I was a *hardegat*.

I was limp with fear. I sincerely believed that they were going to kill me. I never reported to the Magistrate for fear of being assaulted or killed as a result.

Whilst I was held in solitary confinement in Pretoria Prison I managed to know that S. Moodley, R. Cooper, S. Cooper were held in cells in the same corridor as I. At various stages there were also Paul Tsotetsi, Muntu Myeza and P. Nefolovhodwe, in that sequence in time. I knew of their presence because we used to communicate by way of shouting from our cells, to each other.

During late November, Saths Cooper told me that he had been interrogated for several days and that he had been severely tortured and beaten by the security police. He said specifically that his head had been bashed against the wall numerous times until he became dizzy. He also said that he had been lifted off the floor and dropped on the floor, which is of cement. He complained thereafter of earaches and constant headaches. On Monday the 3rd February 1974, he had an epileptic seizure. I saw the whole episode and attended to him initially. In the absence of a history of epilepsy and with a history of head injury I formed a tentative opinion of post traumatic epilepsy, all as a result of his head injury sustained at the hands of the security police.

In the early part of December, S. Moodley also told me that he had been assaulted by the police.

In January 1975, Muntu Myeza told me he had been assaulted by the security police and that he had reported them to the Magistrate. As a result of this report he told me that the security police had visited him in his cell in the prison and again assaulted him.

As a result of my treatment at the hands of the security police, the various assaults upon me, and to my knowledge on the fellow detainees who were assaulted and tortured, I fear for the mental and physical health of all persons still held in detention. I sincerely believe that the treatment that was meted out to me and others I know of is similarly dealt out to persons still held in detention."

3) *Statement by Stephen Dlamini.* Stephen Dlamini was arrested at his home in Bulwer, Natal, at the end of March 1976. At that time he was subjected to partial house-arrest under the terms of a banning order issued against him when he was a prominent member of the South African Congress of Trade Unions (SACTU). After a period of interrogation, which is described below, he was detained in solitary

confinement for more than six months before being released uncharged in October 1976. He left South Africa as a political refugee in May 1977.

“I was made to stand against the wall on my toes, run on the spot; ordered to take off my shoes. Zondi brought gravel which was put into my shoes. I was forced to tie up the laces and stand. They beat me from the back of the knee, punched by all three in the back and on my sides, made to stand against the wall on my toes in the gravel-filled shoes. Whenever I fell down they picked me up and knocked my head against the wall. Scars on my left foot still remain from the stones in both my shoes.

Throughout this interrogation and torture the question they asked was why did Mdluli come to see me. The answer I gave them did not satisfy them. ‘You are a communist’ they said, and continued the torture. Later another group of SB’s [security police] came in. The stones were removed by the outgoing group. When I fell with the stones in my shoes they kicked me and this broke off bits of the sole of my shoes. Blood stains in my shoes still remain. The shoes are available. Different groups of SB’s came in, and each had their own specialised torture. One group came in and one SB beat me on the head with his ring. I don’t know their names; even Zondi—I only heard him being called Zondi.

I had no sleep but remained in the room in Loop Street. I was given food when it was dark. I had no idea of time. The curtains blotted out the daylight. The first night I had no food. I was allowed to go to the toilet twice in four days and three nights. I drank water once in those four days and three nights, and in that period I did not wash. After the first day food came in intermittently. I did eat even though I was beaten up because I knew that food was my only sustenance. My whole body was swollen, my ears blocked from a SB shouting into my eardrum saying ‘speak up’.

Another group made up of blacks and whites came in. Paulos came in, pulled out my glasses and hit me with the open palm over my eyes. I could not see—I feel I lost 75 per cent of my eyesight. Others kept punching me. Another group took over. Zondi came in again with the gravel stones. The same group came back and inflicted the same torture. I ran on the spot. They knocked my head against the brick wall. They tried to break my arm. ‘We are going to throw you out of the window because you are a communist’—throughout they shouted abuse at me. One punched me below the belt. I could hardly pass water. In fact when I passed water it was very painful and all the while ‘why did Mdluli visit you?’.”

4) *Statement by Cleopas Ndlovu.* Cleopas Ndlovu was convicted under the Terrorism Act and sentenced to 15 years' imprisonment by the Pietermaritzburg Supreme Court in July 1977. Eight other defendants received prison sentences ranging from seven years' to life imprisonment. A tenth was acquitted.

Cleopas Ndlovu described his conditions of detention in the following statement made in August 1976:

"I was arrested on the 25th March 1976. This arrest took place at night at about 8-9 pm and it was such a shocking, unexpected and most surprising event. The arrest taking place in Swaziland territory and done by the South African police demonstrated a clear case of kidnapping which had all the advantages of it taking place at night with nobody witnessing it.

During this interrogation and detention period what contributed much to mental imbalance and despair was:

- one: blindfolding of my eyes which took place on the same day of my arrest;
- two: the place where this interrogation took place. (I was taken to a remote camp right in the forest, where I could hear the waves.) I spent 13 days in this camp;
- three: the threats which were being used by the interrogators (besides from the severe beatings and torture) had the most serious effect.

During all my 13 days in this camp I was blindfolded whilst the interrogations and physical tortures took place. I was threatened with death and told I'll be killed and my body will be thrown in the sea. I was asked about my family and about my children in particular. I gave them the answers and thereafter I was told I will never see them again. During this torture operation I screamed out loudly, but was told by my torturers that my screaming is of no use because we are in the forest and at a very isolated spot where no-one will hear my screams.

The whole operation was so nerve wrecking that never in my life have I attempted to commit suicide but during this period I did.

In the room where I was detained the police used to come or creep stealthily and sit next to me, then all of a sudden somebody will burst or beat me making such a noise so that I could get a shock. This happened several days during this camp interrogation, so much that never during this period had I a relaxed state of mind. I was always at high tension, shaky and fearful. During this time I developed a high state of mental imbalance, so much so that at times I used to find myself talking alone, and while this

was happening, somebody sitting quietly next to me would interrupt by shouting or performing any act that would shock me.

When we arrived at the camp at about 2am on Friday morning, the 26th March 1976, I was questioned the whole day and whole night, standing, even on the following day, Saturday, I was questioned until 8pm or 9pm. The interrogation occurred in a small room in the forest camp. During all this time, my eyes were blindfolded, my arms were tied with the rope at my back as follows: my wrists were tied with rope and the rope was tied around my neck. When they were beating me this rope was tied to a rafter or some structure on the ceiling above me. When they moved me or led me to a toilet, they pulled me by this length of rope wound round my neck."

5) *Statement by Mrs Oshadi Jane Phakathi.* Oshadi Phakathi was first detained without charge from 16 to 18 June 1976. She was re-arrested early on the morning of 24 August 1976, when her house was raided by members of the security police. She was taken to the Fort Prison in Johannesburg, where she was detained without charge or trial for more than 120 days. She was released in December 1976 and subsequently banned for five years under the provisions of the Internal Security Act. She left South Africa in 1977.

Oshadi alleges that she was tortured while held at the Fort:

"I was later questioned intensively for three successive days and assaulted in between the questioning.

I was then forced to re-write a document of my activities as guided by the security policemen. Their guidance involved information that would give the impression that I voluntarily gave the policemen information that involved several people because I co-operated with the police. Also I was forced to sign back-dated receipts that gave the impression that I was on the police payroll. The actual pressure was applied by means of assaults, electric shocks applied around my waist and on my breasts whilst I was blinded with a thick cloth around my eyes.

I was also put in an electric frozen bag and suspended in the air by means of a heavy iron until I was suffocating. The policemen then remarked that I could go and continue my struggle, nobody would heed me, because they were going to expose that I co-operated with them.

I spent two weeks in complete isolation."

After her release from the Fort in December 1976, Oshadi Phakathi received the following information from other detainees who had been freed from Modderfontein B Prison in Benoni:

“They told me that security police squads used to visit Modderfontein B Prison frequently, heavily armed and accompanied by a lot of police dogs. There was a special place prepared for interrogation of detainees at that prison. They said that some scholars were heavily assaulted on interrogation. They told me that on some night two male scholars were so heavily assaulted by policemen that one died. They heard them scream the whole night as they were assaulted. The following morning they saw the one through his cell window seriously swollen up, struggling for his life. A convicted prisoner at the same prison told them that this struggling young man was assaulted by the security policemen and that the other one with whom he was assaulted had died as he was assaulted.”

6) *Statement by Mr M.* The following statement was made by a former detainee who is now at liberty in South Africa. His name has been deleted for fear of recriminations.

“They ordered me to undress. When I refused they beat and punched me. At last I was standing in my vest only. They tied the string to the jack and other end to my testicles. They dropped the jack. I screamed with pain. They dropped the jack for the second time. They beat me while I was held by my armpits. When I screamed one SB (security police) put his hands on my mouth to muffle the scream.

The SBs were not satisfied with my story. They continued to punch and slap me, I was taken by three SBs to a room with a door that looked like a butcher’s refrigerator. They pushed me into it. When the door was closed it was too dark. I felt something like fingers touch me. With every touching I felt terrible shock. I screamed. I wet my pants on the second shock. There were three shocks in all. My whole body was wet when they opened the door. I promised them that I would speak if they can stop taking me into that Black House. They took me to the first room. Here again they said I will be locked up for life if I don’t tell them the truth.”

7) *Statements by Soweto students.* Police ill-treatment of detainees reached a new intensity following the outbreak of civil unrest in Soweto in June 1976. This is clear both from the frequency with which allegations of torture have been made by defendants and witnesses at subsequent political trials, and from accounts received from a number of Soweto students who were detained at that time. The following extracts are taken from some of these accounts and are generally typical.

The first statement was made by an 18-year-old who was interrogated at Protea police station in Soweto:

"Four whites and one black questioned me but gave me no chance to reply. During this they were beating me with their fists and kicking me. They asked me about Tsietsie, Khotso and the rest. One of the police said I must strip. I refused and when they saw I was stubborn they all came and beat me. They didn't even question me. They stopped and I was taken to another police station. Two days later they came again and fetched me to Protea. They questioned me about what I had done since the disturbances broke out and tried to force me to say I had been involved in incidents of arson. When I denied it, one of them pointed an FN and threatened to shoot me unless I agreed to say what they wanted. Then they put things on my head and gave me shocks. I was screaming and crying. When I got up I was dazed. One of them told me to sit on a chair but there was no chair where he pointed. I had to sit on an imaginary chair. He said I must sit there for two hours, which was impossible. I fell and they laughed. Another policeman came in and lashed my back with a rod. They forced me to sign a statement and they took me back to the police station. After 31 days in detention I was released."

The next account came from a 20-year-old secondary school student who was also interrogated at Protea police station. First, he was beaten and kicked by four members of the riot police when questioned about attending the funeral of a detainee who died in police custody.

"Afterwards I realised that they had damaged my left ear, because since then I can't hear properly. Then I was questioned again about the funeral and tried to deny again that I was there. He threatened that I would stay in jail for 180 days. He said I would rot in jail and that I would commit suicide. He showed me a hole and said they could shoot me and put me in the hole. I was scared because I know this is one of the things they do. He took out a pen and said I must start speaking about the funeral. I again denied it and he took me to another office where there were four whites. They again beat me on the body. I was screaming very loud. Another policeman came and said the Minister of Justice was present and they should be careful. So they stopped beating me and said I should squat in a corner. It was about lunchtime and they started to have their lunch. I heard a helicopter going off and they started to call me again. They sat me down on a chair and put a sack over my head. I was tied to the chair by my wrists and ankles. They tied something else around my wrists. They also tied

something on to my head. I felt as if I was being pricked by needles. It was very painful. It went through my whole body. It was for about 15 minutes. After that the sack was removed. Then they asked me again about the funeral. They threatened to do that thing again for one hour. So I said I was at the funeral, although that was a lie. They started to write down then what I was telling them about the funeral. They then asked me what I have done and I said I haven't done anything. They put back the sack again. They gave me electric shocks for another 15 minutes. After they removed it I told them that I had thrown stones. It was not true but I said so because I was afraid. They wrote it down and said that was what they wanted and I could go. They told me to tell nobody what they have done to me. I was then taken back to the other police station. I stayed there for 32 days."

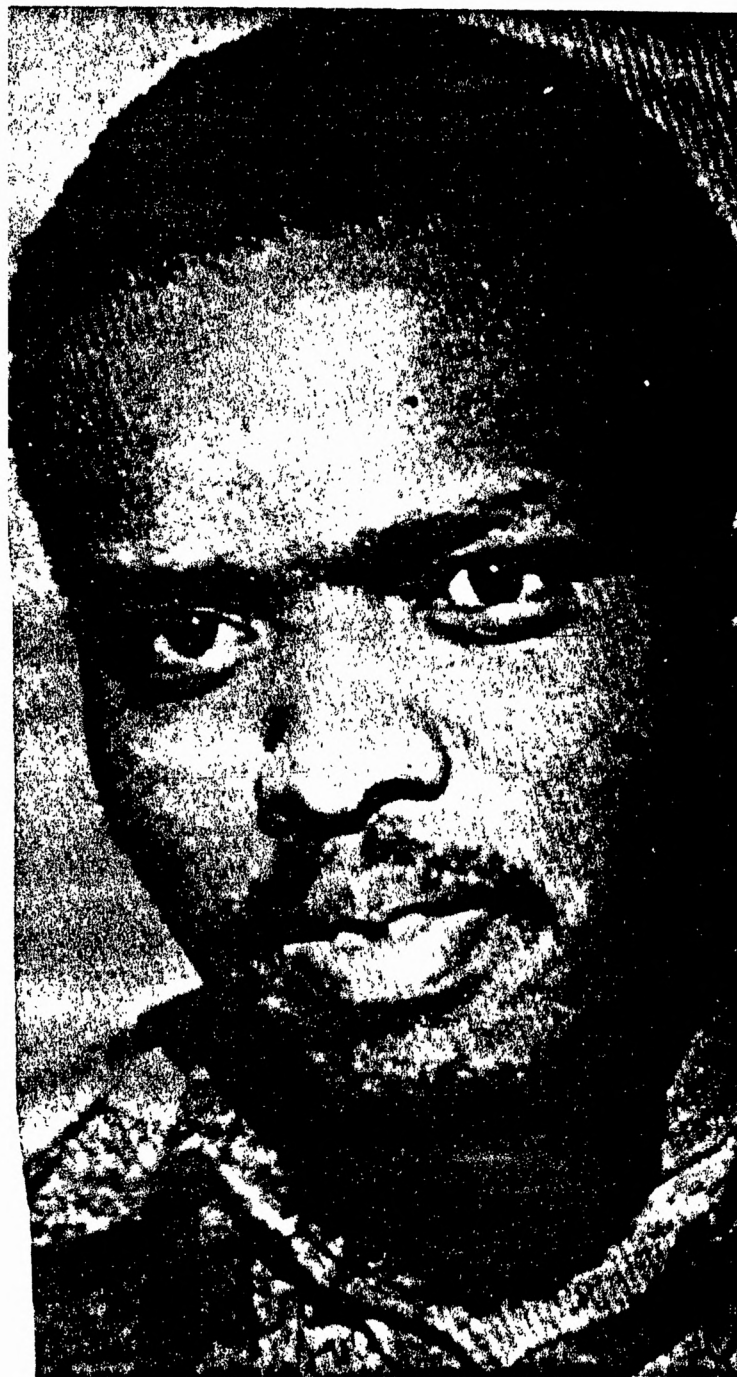
The following statement was made by a 20-year-old secondary school student who was detained for 14 days at Protea police station.

"They took me to an interrogation room. They told me to take my clothes off. I took them off and then they told me to sit on a chair behind the door. Then they fastened me to the chair by my wrists. Then they put something on my head, like a cap. I didn't see what it was. Then they came with a wet cloth and put it inside my mouth. Then I felt electric shocks going through my body. After five minutes the shocks stopped and they asked me if I would tell them the truth. I said I would tell them the truth. Then the shocks started again. Then it stopped. They asked me about the first demonstration on 16 June. I told them I was at school and that when it started I went home."

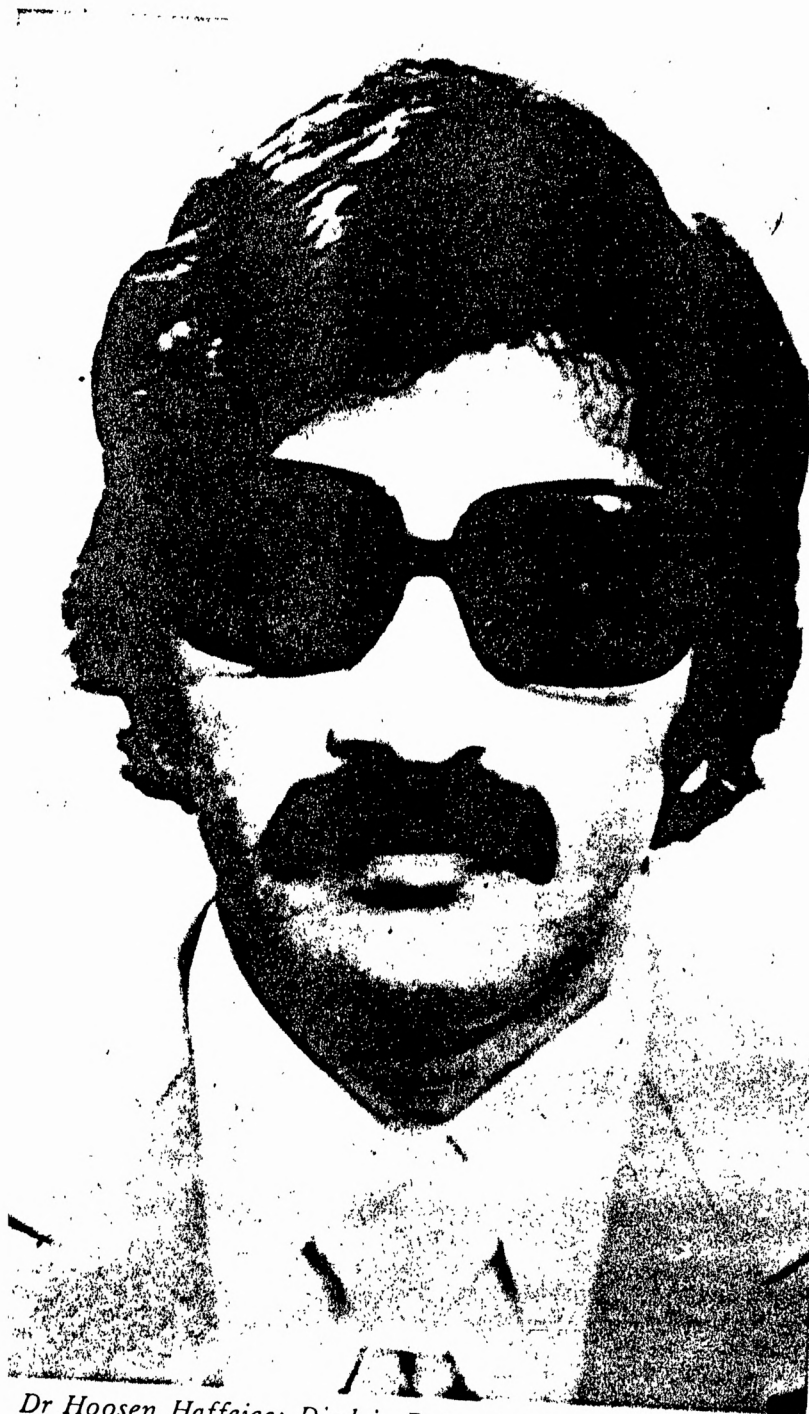
Amnesty International cannot vouch for the accuracy of these statements but they appear to be sincere and credible. Many similar allegations have been made by other detainees.

B. Deaths in Detention

A succession of deaths of detainees in security police custody in 1976-77 focussed international attention on the issue of torture in South Africa. Such deaths were not without precedent, since as many as 22 political detainees had died in mysterious circumstances while detained by the security police between 1963 and 1972. The death, in March 1976, of Joseph Mdluli within hours of his arrest by Durban security police has already been mentioned. Following the outbreak of the Soweto disturbances in June 1976, the deaths of political detainees occurred with unprecedented frequency. At least 20 political detainees are known to have died in security police custody.



Steve Biko: Died in Detention, September 1977



Dr Hoosen Haffjee: Died in Detention, August 1977



*Post Autopsy photographs of
Dr Haffeejee's body showing
recent wounds*





Joseph Mdluli: Died in Detention, March 1976



Injuries on Mdluli's body



Mapella Mohapi: Died in Detention, August 1976

custody between August 1976 and September 1977 (when the Black Consciousness movement leader Steve Biko died in detention in Pretoria). Even this figure may be an underestimate, because of uncertainty in some cases as to whether particular detainees were arrested for political reasons, as their families claimed, or for non-political offences, as the authorities state.¹ In addition, there were fears for the safety of Malebelle Joseph Molokeng, formerly detained and tried under the Terrorism Act, who "disappeared" in March 1977. His wife claimed that he had been re-detained, but this was denied by the security police. Similar uncertainty surrounds the fate of two detainees who were reported to have escaped in February 1977 from John Vorster Square police station, headquarters of the Johannesburg security police.

Several detainees died in circumstances which have not been satisfactorily explained by the authorities. Mapetla Mohapi, a leading member of the Black Consciousness movement, for example, was alleged to have hanged himself by his trousers on 5 August 1976 while detained at Kei Road police station, Kingwilliamstown. He died three weeks after having been detained on 16 July 1976. At an inquest into his death held in 1977, a handwriting expert testified that an alleged suicide note produced by the police had not been written by Mapetla Mohapi. Tenjiwe Mtintso, a former detainee, also appeared at the inquest and gave evidence about her own torture by Kingwilliamstown security police. She alleged that, at one stage, Captain R. Hansen of the security police tied a wet towel round her face causing partial asphyxiation, and said, "now you see how Mapetla died". The inquest magistrate decided that nobody was to blame for Mapetla Mohapi's death, but nevertheless declined to deliver a formal verdict of suicide.

An inquest in May 1977 returned a similar finding on George Botha, a 30-year-old Coloured teacher who died on 15 December 1976, five days after being detained in Port Elizabeth. He was alleged to have broken free while being escorted by police guards and to have thrown himself from the sixth floor of Port Elizabeth security police headquarters. A pathologist who appeared at the inquest stated that several wounds and other abrasions on George Botha's body had been inflicted two to six hours before his death, while he was in security police custody. However, according to the security

¹ The death rate for people detained by the South African police is even more alarming than the figure for political detainees suggests. In 1976, for example, of 130 untried prisoners who died in police custody, only 13 were officially recognised as having been held under security laws.

police, he "was treated like a cultured person and police had respect for him". No explanation was forthcoming concerning the infliction of wounds on George Botha's body shortly before his death.

In another case, that of Dr Nabaoth Ntshuntsha, an inquest was told by a senior pathologist that the dead man bore marks on the back of the head and ears which could have been caused by electrical contact. Dr Ntshuntsha had been detained under Section 6 of the Terrorism Act in Johannesburg on 14 December 1976. According to police he had hanged himself with strips torn from a blanket while detained at Leslie Prison on 8 January 1977. His wife had earlier been refused permission to see him and had not been able to find out where he was being held. A pathologist who attended the post-mortem on behalf of Dr Ntshuntsha's family refused to participate in the autopsy as various incisions had already been made in the body by a police mortuary attendant. Dr Ntshuntsha was said by his security police custodians to have left no suicide note, and to have been in a genial mood only hours before his alleged suicide.

In Kimberley, 27-year-old Phakamile Mabija died when he fell from a sixth floor window of the Transvaal Road police station on 7 July 1977. There were cuts on his face, hands and on the liver which could have been caused either by an assault before his death or by the impact of his fall. The security police said he had broken free suddenly and thrown himself from the window. However, his mother told the inquest in August 1977 that after his arrest Phakamile Mabija had been taken back home by security police who were searching for a certain document. She said that when the police did not find it they told her son in her presence that he would not see his family again. This was denied by the security police.

Dr Hoosen Haffejee, a 26-year-old dentist, was found hanged by his own trousers in a cell at Brighton Beach police station in Durban on 3 August 1977. His trousers were tied around his neck so tightly that they had to be cut free with a razor blade. Security police said he died approximately four hours after his arrest late at night on 2 August. His family, however, believed he was detained much earlier since he did not appear at work as expected that day. A post-mortem examination carried out on 3 August was attended by his brother who stated afterwards that numerous abrasions had been found on his body. He said that the injuries appeared very recent and were concentrated on the ankles, knees, abdomen, back, elbows and arms.

Suspicious circumstances of one sort or another surrounded the deaths of other detainees who died in security police custody between August 1976 and September 1977. Luke Mazwembe, Ernest Mamasila, Wellington Tshazibane, Aaron Khoza and Bayempin Mzizi were all alleged to have hanged themselves while held incommunicado.

Mazwembe had been detained a matter of hours, Mamasila and Tshazibane for approximately two days, Mzizi for some weeks, and Khoza for several months. None had been charged with any offence. Jacob Mashabane, a 22-year-old University of Zululand student, was alleged to have hanged himself at the Fort Prison in Johannesburg on 5 October after an earlier suicide attempt had failed. His death was announced nine days later. The authorities alleged he had been charged with the theft of a motor vehicle. He had disappeared on 1 October and his parents had been unable to trace him.

In the same way as Phakamile Mabija and George Botha, Matthews Mabelane a 23-year-old Soweto student, was alleged to have jumped from the upper storey of a security police building, in his case John Vorster Square police station in Johannesburg. He had been detained incommunicado for approximately four weeks at the time of his death on 15 February 1977.

Other detainees were alleged to have died from natural causes. Dumisani Mbatha, a 16-year-old Soweto student detained under Section 6 of the Terrorism Act, was alleged to have died from heart failure in September 1976. The deaths of Lawrence Ndzanga in January 1977 and Samuel Malinga, who died the following month, were attributed to similar causes. Sixty-one-year old Terrorism Act detainee Elmon Malele was said to have died from hypertension in January 1977 after being interrogated by the security police. Another Terrorism Act detainee, 59-year-old Elijah Loza was reported to have died on 1 August 1977 after suffering a stroke three weeks before while held at Victor Verster Prison in Paarl.

The most politically significant death of a detainee was that of Black Consciousness movement leader Steve Biko on 12 September 1977. He was reported to have died in security police custody in Pretoria. At first, his death was attributed by Minister of Justice James Kruger to a hunger-strike which he was said to have begun seven days before while held by Port Elizabeth security police. Subsequently, however, when this version of Steve Biko's death was challenged internationally and in the South African press, Kruger withdrew his statement. He said he might have been misinformed by his security police advisers. He then claimed that a post-mortem and inquest were required to determine the actual causes of death.

An atmosphere of general disbelief surrounds official explanations of both detainees' deaths and the frequency with which they occur. Many think that detainees have been tortured to death during interrogation by security police, who have then made it appear that they had committed suicide. Both the security police and Department of Justice have failed to provide adequate explanations of how

explained satisfactorily what it is about incommunicado detention that apparently causes so many detainees to commit suicide.

C. Official Attitudes to Torture

Despite numerous allegations of torture made by former detainees, the South African Government has done little over the years to investigate such complaints and to ensure that those arrested are fully protected from abuse by security police. Instead, government ministers and officials have tended to deny absolutely either that torture occurs or that it receives official sanction. But their statements do not appear to be backed by facts.

It is the South African Government which has passed laws permitting incommunicado detention—laws it has consistently refused to repeal. The Government has also refused to hold open, independent inquiries into the deaths of particular detainees and into allegations of torture made by those who survived. The inquests that have been held attempted only to determine the immediate causes of death; they did not try to apportion responsibility for the conditions which led to death. The Department of Justice, for its part, does not attempt to reconcile inconsistent evidence, such as the evidence in the case of George Botha, who appeared to have been assaulted only hours before his death despite security police claims that he had been treated “with respect”.

Although almost all torture allegations emanate from detainees who were held incommunicado under laws such as the Terrorism Act, the South African Government continues to deny such detainees access to their relatives, legal representatives or independent medical practitioners. The South African authorities have also refused a request by the International Committee of the Red Cross to visit these detainees regularly. Accordingly the outside world gets the impression that the South African authorities know they have something to hide.

The South African Government's attitude to the use of torture is also demonstrated by their inaction in dealing with known torturers. The names of certain security policemen recur time and time again in detainees' torture allegations yet they do not appear to be disciplined or dismissed. The Government's reluctance to deal with torturers was also clearly indicated in 1976. Following the death in detention of Joseph Mdluli on 19 March, an attempt was made to suppress the post-mortem findings. Griffiths Mxenge, a lawyer representing the Mdluli family who attended the post-mortem, was himself detained under Section 6 of the Terrorism Act several days later. Only when photographs of Joseph Mdluli's body, taken without the

authorities knowing, were published internationally did the authorities take action. Three months after Joseph Mdluli's death, four members of the security police were charged with his culpable homicide. It was alleged that they had killed him accidentally when restraining him during an escape attempt. He was alleged to have struck his neck while falling to the floor, and to have died as a result. In October 1976, the four security police were acquitted because of lack of evidence. Earlier, a pathologist told the court that Joseph Mdluli's injuries could not have been caused by a single fall but probably arose from pressure applied to the neck. The judge stated that there should be a further inquiry as the court had not received a satisfactory explanation of the circumstances of Joseph Mdluli's death. In February 1977, the Attorney General of Natal announced that his Department had carried out a full investigation and concluded that no further prosecutions were necessary. However, at the conclusion of a Terrorism Act trial in the Pietermaritzburg Supreme Court in July 1977, Mr Justice Howard stated:

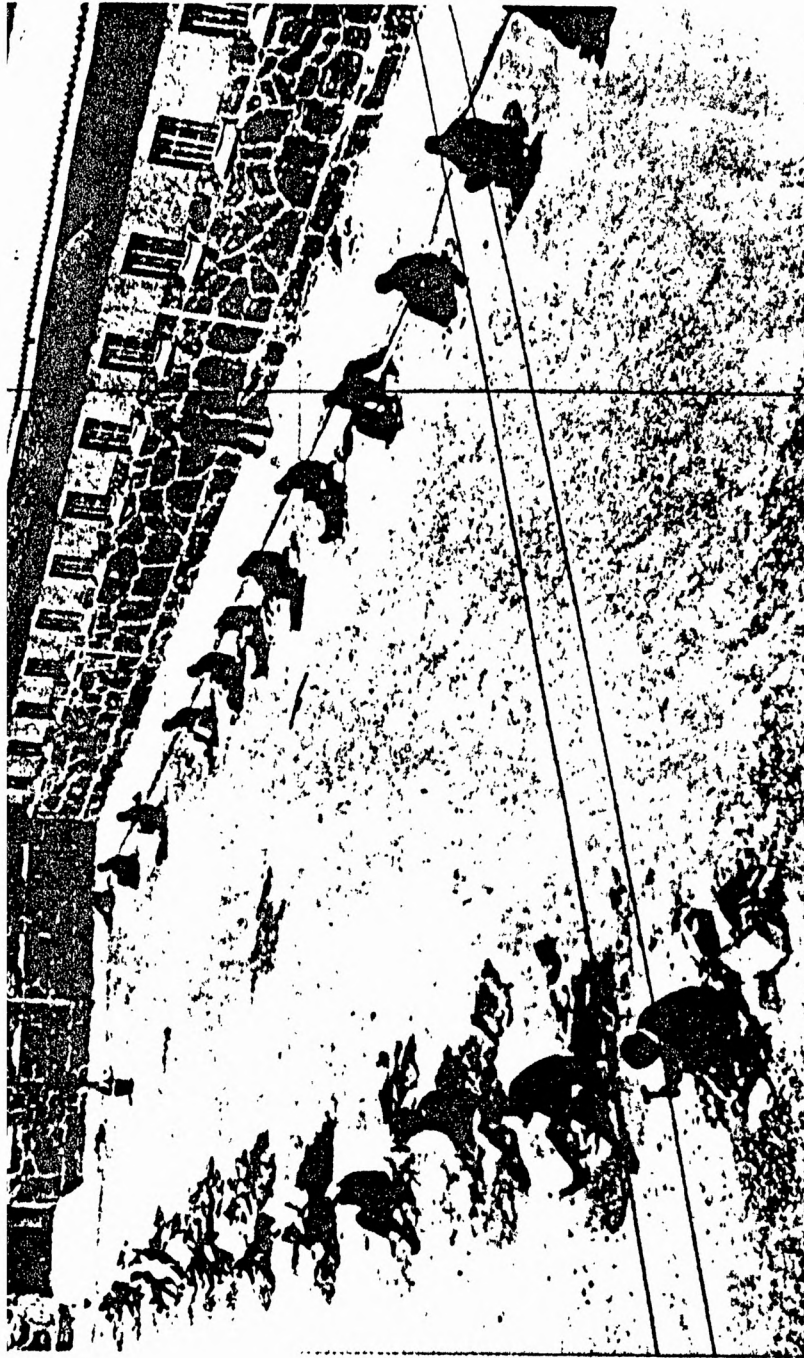
"We are satisfied that Mr Mdluli sustained the injuries when in the custody of the security police. There is no evidence of how he suffered the injuries or in what circumstances. That is a matter peculiarly within the knowledge of the persons in whose custody he was at the time and none of them has given evidence."

No satisfactory explanation of Joseph Mdluli's death has yet been forthcoming from the South African Government, nor have any more prosecutions been instituted against the security police responsible.

The South African Government has attempted repeatedly to prevent allegations of torture becoming public knowledge. A report entitled *Torture in South Africa*, published by the Christian Institute in April 1977, was almost immediately banned, as were similar reports about detention and torture published by the Christian Institute during the course of 1976. The Christian Institute was itself banned in October 1977. It is also likely that the South African Government will make it unlawful for any person in South Africa to possess a copy of this Amnesty International Report.

ii) Prison Conditions

For many years the South African Government has treated political prisoners in a vindictive and uncompromising manner. Political prisoners have no special status, and from time to time, Government ministers and senior police officials have even denied the existence of this identifiable group of political prisoners, claiming rather that those convicted under security laws such as the Terrorism Act and



Hard Labour on Robben Island

Sabotage Act are merely criminal offenders. In April 1977, for example, Deputy Commissioner of Prisons Major General Jannie Roux, was reported to have told a group of South African and foreign journalists, "There are no political prisoners on Robben Island. They have all been convicted of criminal offences".

Despite such assertions, the South African authorities clearly do distinguish between those convicted of political offences and those imprisoned for non-political crimes. Political prisoners are held in special maximum security prisons or prison sections and are treated more harshly than criminal prisoners. They are denied many rights and privileges normally permitted to criminal prisoners, even those imprisoned as habitual offenders. Political prisoners are denied parole or remission of sentence, although most categories of criminal offenders may receive up to one third remission of sentence. Political prisoners, too, are subject to a complete news ban. They are not permitted to receive newspapers or magazines of their choice, and even those they are permitted are heavily censored by the prison authorities to ensure that even general news does not filter through to the prisoners. After serving their full sentences, political prisoners, when released, are frequently subject to restrictions: served with banning orders or sent to so-called "resettlement areas" such as Ilings and Dimbaza in the eastern Cape. Thus, the South African authorities effectively impose an additional sentence to that passed by the court which originally tried and convicted the prisoner. It is therefore impossible for many former prisoners to enjoy any form of normal social intercourse, to rejoin families and friends, or to re-start a normal life.

When they enter prison, all convicted prisoners, whether political or criminal offenders, are classified according to their social, political or criminal background. They are then put in one or other of the four official prison grades, numbered A to D, which determine the diet, clothing, cell equipment and privileges they are entitled to receive. Initially, at least, most political prisoners are given D category status, the lowest of the four grades and the one usually reserved for habitual offenders, although they may subsequently be upgraded to C or, more rarely, B or A status.

Political prisoners in D category may be visited only by members of their immediate family, and may receive only one half-hour visit a month, except in December when two visits are allowed. They may not be visited by children of under 16. If prisoners do not receive a visit in any particular month, they may subsequently be allowed a slightly longer one at the discretion of the prison authorities; or else they may send and receive two, instead of one, letters of not more

than 500 words. All letters are, however, subject to close scrutiny and censorship by the prison authorities. Only matters of a personal or family nature may be discussed. D category prisoners are also limited as to the use they can make of the money, a maximum of 8 Rand per month (approximately US \$10.00) which each prisoner is allowed to spend within the prison. They may purchase items such as stationery, toiletries or tobacco, but they are not permitted to buy food to supplement their prison diet.

Prisoners in C category receive visitors and mail on the same basis as D grade prisoners, but they are permitted to buy some items of food each month. Further up the scale, B grade prisoners may receive one visit by two people, and can send and receive two letters each month. A category prisoners are entitled to two visits per month, each by two persons, and may send and receive three letters each month. They may also spend 5 Rand (approximately US\$6.0) out of the maximum 8 Rand allowed on foodstuffs.

Some indication of the numbers of prisoners apportioned to each of the four grades was given in April 1977 when the Department of Justice arranged for a number of South African and foreign journalists to visit Robben Island, the main maximum security prison for political prisoners. Out of a total of some 370 prisoners held on Robben Island, it was reported that 113 were in D grade, 36 in C grade, 48 in B grade and 85 in A grade. A further 88 prisoners were awaiting classification most of whom, as newly arrived prisoners, could expect to be placed in D category.

The prison authorities do not merely discriminate between prisoners according to their social background. They also discriminate on racial grounds. All white prisoners, for example, are provided with divan beds and mattresses as part of their normal cell equipment. In contrast, black prisoners are supplied with sisal sleeping mats and blankets. They receive beds only on health grounds, and upon the recommendation of the prison medical officer. Different diets, too, are prescribed under prison regulations for the different ethnic groups. The prison authorities claim that their intention is not to discriminate between prisoners but rather to cater for the different cultural backgrounds. As a result, African prisoners receive a diet consisting largely of mealie-meal porridge, made from maize meal, but no fresh milk and only very small quantities of such other commodities as sugar, bread and tea which have become a prominent part of the diet of most urban Africans. The prisoners commonly interpret the existence of different diets as an attempt by the authorities to emphasise the inferior status of black prisoners and to provoke bad feeling between black and white political prisoners.

All convicted political prisoners in South Africa are held in maximum security prisons. They are racially segregated, so that black male prisoners are usually sent to Robben Island while white male prisoners are mainly held at Pretoria Central Prison. Female political prisoners are usually held at Kroonstad Prison in the Orange Free State.

A) Robben Island

The majority of convicted political prisoners are held on Robben Island, a small island located some 10 kilometres off the South African coast at Cape Town. The Island, as it is commonly known, has for long been a place of imprisonment. A leper colony for much of the 19th century, it has also been used in the past to imprison various African tribal chiefs who attempted to resist the expansion of white power in South Africa. It is generally regarded as an inhospitable place which experiences greater extremes of climate than the nearby Cape mainland. Prisoners have complained that in summer the heat is intensified by salt air, sparse vegetation and lack of shade. In winter, the Island is said to be continually damp because of frequent fog and sea storms.

In 1959, the South African Government decided to build a maximum security prison on Robben Island, and two years later the Island was declared a "prison and prison premises". At first it housed convicted criminal offenders as well as political prisoners, but now only the latter remain. Although all the prisoners are black, the prison staff is exclusively white.

Robben Island prison has a capacity for 650 prisoners. Until recently, the prison was divided into three sections, one containing single cells and the others containing larger communal cells. However the arrival of a large number of new prisoners, following the outbreak of disturbances in Soweto in June 1976, led to the creation at the end of the year of a fourth section into which all new prisoners are now placed.

Each of the four sections is divided one from the other by high walls and wire fences, allowing little contact between the prisoners of different sections. This is particularly true of the smaller section, the isolation section, which contains approximately 30 single cells each measuring 2.1 metres by 2.4 metres. In this section, several African Nationalist leaders are imprisoned including Nelson Mandela, Govan Mbeki, Walter Sisulu, and Ahmed Kathrada, all of whom were sentenced to life imprisonment in 1963. Imprisoned in the same section with them is the Namibian nationalist leader, Toivo Hermann ja Toivo, who was sentenced to 20 years' imprisonment in 1968.

These prisoners may mix with one another, but are kept completely separate from the other political prisoners on Robben Island both while at work and during periods of leisure time. As internationally known African Nationalist leaders, the conditions of their imprisonment are to some extent easier than for the majority of prisoners. Their single cells provide a greater degree of privacy, and they tend to receive rather more frequent visits than other prisoners. However, the aim of the prison authorities is not to provide them with greater facilities or better treatment, it is rather to minimize their influence over other prisoners and to ensure that they do not provide the type of leadership in prison which they formerly provided outside.

Conditions on Robben Island were reportedly very harsh during the mid-1960s when Mandela, Sisulu and other isolation prisoners first commenced their sentences. Frequent acts of brutality occurred then as the all-white prison staff attempted to break the spirit and resistance of their black prisoners. Every attempt was made to humiliate and degrade them. They received a diet even more meagre than that which is provided today, yet were expected to engage in hard manual labour. They were not given any constructive form of work to do, they were merely made to break stones, to work in the prison's lime quarries or to collect seaweed along the shore. Even prisoners who had previously had sedentary occupations were made to engage in work of this kind. D category prisoners, then as now, the largest group, were allowed to send and receive only two letters each year. Visits, too, were limited to two a year, though most prisoners in fact received none. Medical facilities were inadequate, and many prisoners criticised the unsympathetic attitude of the medical doctor who visited the prison on average twice a week. Prisoners were particularly worried that their sparse diet and long daily exposure to the cold and wet climate of Robben Island might lead them to contract tuberculosis. Several prisoners did indeed develop this disease.

In many respects, conditions on Robben Island are generally reported to have improved in recent years. Acts of brutality against prisoners are now less frequent, though they still undoubtedly occur from time to time. Workshops have been established where prisoners can practise carpentry and other such activities. More leisure time facilities have also been made available.

The improvements that have taken place may be attributed to three main factors. First, the prisoners themselves have continuously stood up to the authorities and struggled for an improvement of their conditions. They have petitioned the prison authorities concerning their most acute grievances and have gone on hunger-strikes. On

occasions, the prison authorities have responded by disciplining those who protest, placing them in solitary confinement and on a reduced diet for long periods. Such was the experience of Kader Hassim and Sonny Venkatrathnam who were placed in isolation and deprived of the privileges of reading, studying and smoking for six months during 1972-73 after they had compiled a list of complaints and, with 50 others, addressed a petition to the officer commanding Robben Island Prison.

International pressure has also been a factor in bringing about improvements on Robben Island. The prison became notorious during the 1960s when considerable information about the prevailing harsh conditions was given to the outside world by prisoners' relatives and former prisoners. Reports of ill-treatment received wide international publicity, the more so because those involved included well-known leaders of the African Nationalist movement. The South African Government has shown its sensitivity to such international criticism on more than one occasion. In 1973, for example, it gave Australian journalist David McNicoll special permission to visit Robben Island and to talk to a number of prisoners, including Nelson Mandela and Dr Neville Alexander. More recently, in April 1977, a group of 25 South African and foreign journalists were given a conducted tour of Robben Island by the Deputy Commissioner of Prisons, Major General Jannie Roux. This followed publicity given to a claim made by Amnesty International that several new prisoners had been attacked by warders using guard dogs while working in the prison's lime quarry. Minister of Justice James Kruger told the journalists who visited the Island that they were allowed to do so "to ascertain for themselves the true treatment circumstances of the prisoners incarcerated there". However, the journalists were given no advance warning that they were to be allowed to visit Robben Island and therefore had no opportunity to research details of specific allegations of ill-treatment. Nor were they permitted to speak to any of the prisoners in order to obtain a clear understanding of their grievances. Before publication the journalists had to submit their reports to the Commissioner for Prisons on security grounds. The main news agencies also agreed in advance "in the interests of objective and perspective reporting" to publish in full any comment the Commissioner of Prisons might wish to make concerning a particular press report.

One effect of international pressure was to persuade the South African Government to permit delegates from the International Committee of the Red Cross to visit Robben Island annually in order to inspect prison conditions. As a result Red Cross delegates have

been able to mediate effectively between the prisoners and the prison authorities, and thereby reduce the areas of friction. The Red Cross delegates' findings are kept secret by mutual consent, but it is clear from the reports of released prisoners that many material improvements have occurred.

Although conditions now are not so harsh as they were during the 1960s, there still remain many areas which require significant improvement. The first of these concerns the question of news. Prisoners on Robben Island are allowed no radio sets or newspapers, and the only reading matter they receive is subject to strict censorship. The aim of the authorities is to prevent them from obtaining any news concerning political events and developments within South Africa itself and in the world in general. According to Mac Maharaj who served a 12-year sentence before his release in December 1976, prisoners on Robben Island are "covered in a stifling blanket against information from the media or from any source outside the prison gates". However, it is only political prisoners who are treated in this way. Convicted criminal prisoners are allowed to receive newspapers and may listen to radio broadcasts from time to time.

The facilities governing visits are generally unsatisfactory. The great distance of Robben Island from most prisoners' homes, and the expense of travelling, means that prisoners receive few visits from their families. In April 1977, it was reported that 240 visits had been made to prisoners on Robben Island during 1976, an average over the year of less than one visit per prisoner. There are believed to be several prisoners who have not received any visits although they have been on Robben Island for ten years or more.

Even when a prisoner is visited by a member of his family he is allowed no physical contact with the visitor. Conversations must be held through a wire-mesh window linking two sides of a glass screen. At no time may children under 16 be taken to visit their fathers on Robben Island.

Many prisoners also complain that their relatives are deterred from visiting Robben Island for fear of harassment and intimidation by security police and prison staff. Nevertheless, many prisoners' wives continue to make the long journey to the Island for the sake of a few minutes with their husbands. One such woman recently wrote the following to Amnesty International:

"Now about my visit: it was one of the most fulfilling moments I have had for the year. Despite all the setbacks, despite being followed and trailed like a hound, and then being treated like a sub-human being on the boat to the Island, my visit was filled with courage and deaf admiration for all those like my husband, banished

to this lost piece of land, just for their beliefs and convictions. He 'appears' to be well. He has just recovered from a seven day attack of bronchial pneumonia. The Island doctor has placed a tuberculosis query on his file. This has disturbed me immensely, especially now that I am aware of the bitter cold that bites through the body in this place. And there to be sleeping on those damp cement floors can worsen such a poor health condition. I will push to get him to a specialist on the mainland. Pray I succeed, because I know how people in the past have been neglected or were not allowed further medical treatment."

With regard to mail, prisoners complain that their letters are often delayed unnecessarily by the prison authorities. They complain, too, that they are allowed to study as a privilege and not as a right. No desks and few other educational facilities are available within the prison, nor are prisoners permitted to study at postgraduate level or to take correspondence degrees in subjects such as law or political science.

Discrimination on racial grounds continues as before. Black prisoners still receive what the authorities consider to be their "traditional" diet, and must sleep on mats on the floor. Only 13 out of 370 prisoners held on Robben Island in April 1977 had been provided with beds, although these are supplied as a matter of course to all white prisoners.

Some prisoners are still made to work in the prison's lime quarries, where the work is of a heavy manual nature. They and others complain that medical facilities remain inadequate and that the visiting medical officer is unsympathetic because they are political prisoners. Over the years, several examples have been cited by the prisoners of individuals imprisoned with them who died either because they received unsatisfactory medical treatment or because they were treated too late. There remain on Robben Island at the present time, several prisoners (some of whom are quite elderly) whose health is generally reported to be poor.

A more humane policy is also needed to deal with the problems of the 37 or more prisoners who are known to be serving sentences of life imprisonment. Their sentences are interpreted in such a way that under present circumstances they may expect to be imprisoned on Robben Island until they die. Like all other political prisoners, they have no prospect of parole and do not qualify for remission of sentence. They include at least 12 Namibian nationalists who were arrested and convicted for offences committed in Namibia. They will no doubt remain in prison at least until a settlement of the Namibian constitutional issue has been agreed.

During the early 1970s, the trend was towards a declining prisoner population on Robben Island. There were relatively few political trials and only a small intake of prisoners. However, following the outbreak of civil unrest in Soweto and other black townships in mid-1976, there were many political trials under the Terrorism Act and the Sabotage Act, and many sentences of imprisonment were imposed. As a result, Robben Island received a relatively large influx of new prisoners in late 1976, causing relations between prisoners and warders to deteriorate significantly: For the older inmates who had been on Robben Island since the mid-1960s and who had been denied access to political news, the arrival of many new prisoners served to indicate that the nationalist struggle in South Africa was still continuing. This appears to have strengthened their resolve and determination to stand up for the principles in which they believe. The new prisoners too appear to have shown their determination not to be cowed by the thought of the years of imprisonment in front of them, and to have actively supported one another in confrontations with the prison staff. At the end of September 1977, there were more than 450 political prisoners on Robben Island.

B) *Pretoria Prison*

The political section of Pretoria Prison contains nine white political prisoners serving sentences ranging from five years to life imprisonment. A tenth white prisoner, the distinguished Afrikaans poet and painter Breyten Breytenbach, was formerly held at Pretoria Prison though not with the other political prisoners. He was moved to Pollsmoor Prison near Cape Town in August 1977.

Prisoners in the political unit at Pretoria Prison are held in single cells each measuring about 2.75 by 1.75 metres. Cell furnishings include beds, wash basins and flush toilets. Prisoners are allowed out of their cells at 7.30am but are locked up again for the night at 4.30pm, so that they are confined to their cells for an average of 15 hours a day. Most of the prisoners have university degrees but they are mainly employed in the prison's carpentry workshop. They are allowed to study to degree level, but afterwards cannot take a second degree course or study at postgraduate level. In the opinion of the prisoners, however, the worst aspect of their imprisonment, like the prisoners on Robben Island, is that they are subject to a total news ban. In August 1977, the nine Pretoria prisoners attempted to obtain an order from the Supreme Court instructing the prison authorities to allow them greater access to news. They claimed that this deprivation was a "cruel, inhuman and unnecessarily harsh punishment", and asked that they be treated in the same way as the convicted criminals who form the majority of the population of

Pretoria Prison. Their application was however rejected by Mr Justice Curlewis when it was heard in the Pretoria Supreme Court. The Judge decided that it was not necessary for political prisoners to be provided with reading matter that kept them in contact with the outside world. He said, "It's not necessary for me. The last thing I want to do is look at a newspaper".

In a report entitled *Prison Administration in South Africa*, which was published by the South African Department of Foreign Affairs in 1969, it is claimed that the "administration and management of penal institutions is based on legislation conforming to the *Standard Minimum Rules for the Treatment of Prisoners* adopted at the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 30 August 1955", and that the "major objective is rehabilitation with a view to preparing the prisoner for a normal and productive life on release." It is however clear to Amnesty International that the conditions under which convicted political prisoners in South Africa are held fall far short of the standards prescribed in the *Standard Minimum Rules*. Many examples could be quoted of how actual conditions of treatment do not conform with the *Standard Minimum Rules*. This can be shown clearly through one example, often raised by prisoners themselves.

Paragraph 39 of the *Standard Minimum Rules* recommends that prisoners be kept informed of the more important items of news by being allowed to read newspapers or listen to radio broadcasts, yet this is not permitted on Robben Island or in the political unit of Pretoria Prison.

iii) *Banned People*

During the last 15 years, banning orders have been employed by the South African Government as one of their main instruments of political control. They have been used with drastic effect to emasculate black political organizations and other anti-apartheid groups, by imposing on their leaders a form of enforced social isolation and by prohibiting the dissemination of their views. Faced with international criticism, government ministers and officials have frequently tried to defend their use of banning orders by emphasising how few people have actually been banned relative to the population of South Africa as a whole. This is really a meaningless argument designed merely to stave off international pressure and to give the impression that banning orders are only imposed against political extremists. In fact, the real significance of the people banned far exceeds their number. Those who have been banned include many individuals, who are widely regarded, both within South Africa and internationally, as

being among the accepted leaders of black opinion. At the present time, banning orders are enforced upon people such as Winnie Mandela, wife of jailed ANC leader Nelson Mandela, Robert Sobukwe, former leader of the PAC, and Barney Nyameko Pityana, former Secretary-General of SASO. Steve Biko, the first SASO President and acknowledged founder of the Black Consciousness movement, was restricted under a banning order from February 1973 until his death in security police custody in September 1977. Even after his death, the banning order remained in force and so prevented publication of his earlier writings and speeches.

The South African authorities have not only used banning orders to disrupt the development of an effective political opposition. They have also used their powers to ban individuals, in conjunction with their censorship powers, to prevent a wider South African public becoming informed about some of the most alarming aspects of *apartheid*. In 1972, for example, a Catholic priest named Father Cosmas Desmond was banned for five years shortly before the publication of a book he had written about conditions of life for Africans living in the so-called "resettlement areas". As a result, Desmond's book, *The Discarded People*, could neither be published nor sold legally, within South Africa, and many South Africans therefore remain ignorant of the disquieting revelations it contained.

The provisions of the Internal Security Act relating to the imposition of banning orders have already been described (see page 23). However, the full implications of the restrictions placed on an individual's freedom of movement, association and expression cannot be fully appreciated unless reference is made to specific cases and to the effect which banning orders have had on the lives of particular banned people.

The first thing to be said is that the restrictions imposed under banning orders vary considerably. Some banning orders provide that the person concerned should not attend political or social gatherings of any kind — that is, meetings of three or more people. In contrast, the terms of other banning orders are drafted in such a way that the people concerned are severely restricted and deprived of the opportunity to lead any kind of normal social life and even, in some cases, to continue their chosen career. Such banning orders have been imposed on many people over the years. William Letlalo, for example, was subjected to 24-hour house-arrest continuously from 1965 to 1969, a period of four years. Similarly, A.K.M. Docrat was only allowed to be absent from his home for two hours each weekday under the provisions of a banning order imposed in 1969. Subsequently, this restriction was eased when he was banned for a third successive five-year period in 1974.

All banning orders, of whatever intensity, are of course imposed arbitrarily by the Minister of Justice and without specific reasons being given. In at least one case, that of Neville Alexander, a five-year banning order was actually imposed several days before his release from Robben Island, where he had served a 10-year prison sentence, on the grounds that he was engaged in activities likely to "further the aims of communism". Alexander appealed to the Supreme Court to order the Minister of Justice to lift his banning order, claiming that he could not have been furthering the aims of communism while imprisoned for 10 years on Robben Island, but only succeeded in having the Supreme Court declare that it had no jurisdiction over the terms under which banning orders are imposed. The 10-year prison sentence imposed on Alexander by a court of law was thus augmented by an additional punishment imposed administratively by the Minister of Justice. A former university lecturer with a doctorate in German Literature, Neville Alexander is prohibited from entering any educational institution in South Africa under the terms of his present banning order.

Many other political prisoners have been served with two or five year banning orders at the time of their release from prison. In some cases they have not been allowed to return to their homes, even for a brief visit, before being sent to live under restriction in such places as Ilingi, Dimbaza and other "resettlement areas". They can rarely find work, even of the most menial kind, and when they do are liable to be dismissed at a moment's notice as a result of security police pressure on their employers. Living at poverty level, they often lack sufficient means to support their families who are thus unable to join them.

But it is not only former political prisoners who experience hardship. All banned people, the majority of whom in fact have not at any time served prison sentences or been charged with political offences, may be abruptly deprived of their livelihood and isolated from their friends because of the restrictions imposed under their banning orders. Bokwe Mafuna and Tenjiwe Mtintso, for example, were both forced to give up their careers as journalists when they were banned in 1973 and 1976 respectively, as it is an offence to publish the writings of any banned person. Similarly, Peter Magubane, although an internationally-renowned press photographer, could not continue with his career while banned between 1970 and 1975. A wave of bannings in the last months of 1976 resulted in more than 20 people associated with the promotion and organization of black trade unions being ordered to have no further contact with the very unions they had done so much to develop. Those banned at this

time included such prominent trade unionists as Eric Tyacke and Loet Douwes-Dekker of the Johannesburg-based Urban Training Project, an organization specialising in workers' education for African trade unionists.

Banning orders have also been widely used against university students and teachers, who have as a result been prevented from continuing with their studies or teaching duties. In February 1973, for example, five white students and one university lecturer, all associated with the National Union of South African Students, were banned together with eight leading members of the black South African Students' Organization. They were all prohibited from entering any university, school or other educational institution under provisions which apply to most banning orders.

As banned people are not permitted to communicate with one another, so the South African authorities have on many occasions issued banning orders simultaneously on groups of people who are known to be personal friends or professional associates. In this way, they are cut off from one another and prevented from continuing with their mutual activities. Even members of the same family have been banned from time to time. Strini Moodley, one of the SASO leaders banned in February 1973, had to obtain a special dispensation to communicate with his wife, Sumboornam, when she too was banned in July 1975. A similar dispensation had to be obtained by Barney Nyameko Pityana, who was banned in 1973, when his wife, Dimza, was banned in April 1977. Sheila Weinberg, who was banned in November 1976, also had to obtain special permission from the Minister of Justice before she could communicate with her mother, Violet Weinberg, who had been banned in November 1973.

Many banned people have been subjected to constant surveillance, harassment and persecution by the security police. One wrote recently to Amnesty International and described the sort of situation typical of that experienced by many banned people:

"Coming back to our family, we are still living under terrible conditions from the police. They watch our house constantly. They come to my place of employment regularly and interfere with our clients . . .

I have a case coming up for attending a social gathering contrary to my banning order. This is how this happened. One morning the police found a friend of mine with whom I was detained last year at our office. Immediately they concluded that that was a social gathering . . . They took me and opened a file about me.

So as it were we do not know what the future holds for our

family. We only hope that God will see to it that justice is done to my case. The police do not want to see anybody talking to me as they always go and ask that particular person what we were talking about. They have in fact said to me and to some people that I am not allowed to talk to anybody. I am sure this is not what the law says."

As this statement shows, the imposition of a banning order not only condemns an individual to stifling restrictions and a life outside the limits of normal society, it also empowers the police to invade every sphere of life.

Death Penalty and Civilian Killings

i) The Death Penalty

South Africa has one of the highest rates of judicial executions in the world. In 1974, for example, 86 people were sentenced to death and 40 were executed. The following year 103 sentences were passed by the courts, 68 executions carried out. Sixty-seven people were executed in 1976. The death penalty may be imposed for a wide range of serious crimes such as murder, rape or robbery with aggravating circumstances, and for certain political offences covered by the Terrorism Act and related security legislation. Persons convicted of treason may also be sentenced to death, although there have been no prosecutions for this offence in recent years.

Three main security laws make provisions for the imposition of the death penalty. The Internal Security Act of 1976, which replaced the earlier Suppression of Communism Act, makes it a capital offence for any person to undergo, or encourage others to undergo, any form of "training" in order to achieve any of the objectives of communism, as these are widely defined under the terms of the Act. The Internal Security Act further provides for a possible death penalty where a past or present resident of South Africa or Namibia is convicted of having advocated, while abroad, foreign intervention to effect change or the achievement of the objectives of communism.

The Terrorism Act of 1967 and the so-called Sabotage Act—Section 21 of the General Law Amendment Act, No.76 of 1962—also contained provisions for the death penalty, the former for the offence of "participation in terroristic activities", and the latter for "sabotage", as these offences are defined in the two Acts. Both these laws, together with the Internal Security Act, are applicable not only in South Africa but also in Namibia while that country remains under South African occupation. They are not applicable in the Transkei, where they have been replaced by a new Public Security Act. This not only duplicates the main provisions of the South African security laws but adds a clause to the effect that any person convicted of repudiating the sovereignty and independence of the Transkei, or claiming that the Transkei is really a part of South Africa, is guilty of treason and liable to the death penalty. Introduced in early-1977,

several months after South Africa declared the Transkei "independent", the Public Security Act was made retroactive to 1975. It is clearly designed to effect wider recognition of the independent status claimed for the Transkei by the Matanzima administration and thus help to legitimise the South African Government's "bantustan" programme.

Despite the spate of political trials involving offences under the Terrorism and Sabotage Acts which occurred in 1976-77, no executions have been imposed for overtly political offences since the mid-1960s. Judges have refrained from imposing the death penalty, perhaps for political reasons in some cases, preferring instead to sentence convicted political prisoners to long terms of imprisonment. However, this trend may be expected to change as Africans turn increasingly to more violent methods in their attempt to secure effective participation in the government of their country. To some extent, this situation has already come about in Namibia, where nationalist guerrillas belonging to the South West Africa People's Organization (SWAPO) have been engaged for some years in an armed struggle against the illegal South African administration. In July 1977, the South African authorities in Namibia executed an alleged member of SWAPO's guerrilla forces, Filemon Nangolo, who had been convicted of four murders—but not of offences under the Terrorism Act—in September 1976. In May 1976, two other Namibians were sentenced to death, this time under the terms of the Terrorism Act. Subsequently, however, the two men—Hendrik Shikongo and Aaron Muchimba—were acquitted and discharged by the Appellate Division of the South African Supreme Court. Convicted murderers comprise the majority of prisoners sentenced to death and executed in South Africa. Murder is punished with death on a mandatory basis unless, in the view of the presiding judge, extenuating circumstances apply. The death penalty may not be imposed however upon pregnant women or juveniles under 18. When a death penalty is passed and upheld upon appeal, a report is sent to the State President who may then make a recommendation for clemency. At the same time, a report is also passed to the Department of Justice for scrutiny and for a decision as to whether an execution should take place. Executions are authorised by the Minister of Justice and are normally carried out at Pretoria Central Prison. It is not unusual for multiple executions to take place.

By far the majority of prisoners sentenced to death and executed are Africans. Clearly, this is partly a result of the fact that Africans comprise not only the overwhelming majority of the population but also constitute the group which, under the *apartheid* system, occupies

the position of greatest social deprivation. However, it is also widely believed that the courts tend to discriminate against Africans and impose on them heavier penalties for specific offences than they would normally impose on members of other racial groups, in particular the white group. No comprehensive study of this subject has yet been undertaken, but individual cases do lend support to the general supposition.

Murder trials involving white people certainly arouse much more publicity and public comment than those involving blacks. As a result, white people accused of murder or other serious crimes tend to have the benefits of eminent and experienced defence counsel, psychiatric reports and so on. Blacks, in contrast, are frequently defended by junior counsel appointed on a *pro deo* basis and are rarely subjected to psychiatric examination. The following official figures¹ for the years 1973 to 1975 provide a clear indication of the extent to which Africans predominate as victims of the death penalty in South Africa.

<i>Executions carried out (by year)</i>	<i>Africans</i>	<i>Asians</i>	<i>Coloureds</i>	<i>Whites</i>
1973	29	—	12	1
1974	30	2	7	1
1975	50	—	18	—

ii) Civilian Killings: Soweto and its aftermath

No report concerned with human rights in South Africa can fail to make reference to the mass civilian killings which occurred in Soweto, Nyanga and other black townships in the second half of 1976 and in 1977. The killings, unprecedented in scale and involving many schoolchildren, evoked horror and revulsion throughout the world but, strangely, seemed to give South Africa's government ministers little cause for concern. Speaking on 27 August 1976, by which time more than 250 people had been killed and more than 1000 injured largely as a result of police action, Prime Minister John Vorster declared "there is no crisis" in South Africa.

In fact, there appears to have been a deliberate attempt by government ministers and officials to conceal or at least minimise the true extent of the killings, particularly in Soweto, but also throughout the rest of the country. Senior police officers with responsibility for the areas of unrest repeatedly refused to release lists of the dead and injured to the press, claiming that such statistics were a matter of "national security". General Gert Prinsloo, for example, the

¹ *Source: South African Institute of Race Relations.*



Riot Police. Soweto 1976







Civilian Killing, Soweto 1976

Commissioner of Police, told the Johannesburg *Rand Daily Mail* that police lists of the dead were not available to the public although they had been given to the Commission of Inquiry headed by Judge Cillie, which was established in June 1976 to investigate the causes of unrest. The Government had still not issued an official list of the dead and injured by 16 June 1977, the anniversary of the first shootings in Soweto.

In November 1976, visiting United States Congressman Charles T. Diggs reported that South Africa's Information Minister, Dr Connie Mulder, estimated that between 250 and 280 people had been killed during the Soweto disturbances alone. Mr Diggs disputed this figure claiming that it was an under-estimate. His view was supported by a number of unofficial sources, all of whom put the death toll much higher. Following a three-week investigation, the American magazine *Newsday* announced on 12 December that at least 332 lives had been lost in Soweto and that the death toll for the country as a whole was in excess of 435. At the end of December 1976, by which time of course more killings had taken place, the *Rand Daily Mail* listed the names of 499 people who had died in the riots. Five months later, in May 1977, the South African Institute of Race Relations claimed that at least 618 people had been killed throughout the country as a result of the disturbances in 1976. Eighty-five of the dead were said to have been youths or children. Out of the total, 442 people had been killed in the Transvaal, 153 in the Western Cape, and 23 in the Port Elizabeth area.

Allegations of police brutality during the disturbances were made from many quarters. Mrs Oshadi Jane Phakathi, a prominent member of the Christian Institute, was arrested on the day of the first shootings—16 June 1976—when she went to Orlando police station in Soweto to act as a witness for a woman whom the police had charged with incitement. Mrs Phakathi was held without charge in cramped and overcrowded conditions for three days before her eventual release. While in detention, she talked with three teenage girls who had been arrested and assaulted by the police. They told her that they had been brought to Orlando police station in a police vehicle packed full with injured people and the corpses of the dead. On arrival at Orlando the dead bodies had been stacked in one corner while very seriously injured people “were made to lie flat on their stomachs and the police walked on them with their heavy boots until they were dead”. Mrs Phakathi herself reported:

“Right through the night of the 16th and 17th June, from our cell, we could hear fights going on between the policeman and

arrested males in the next-door cells. We heard men scream, appealing for sympathy as the policemen assaulted them bitterly. We could also very frequently hear guns fired in those cells. Frequently in between the fights we heard the prisoners shout for the policemen urging them to remove dead prisoners from their cells, giving the impression that the dying people were those who were assaulted and shot. The doors of the cells were frequently opened and closed. Indeed, on the 18 June at 3am when we were transferred to a different police station in Soweto, we walked across many corpses left lying all over in the yard of the Orlando police station as well as immediately in front of the doors of our unit of cells."

It was also alleged in both Soweto and Cape Town that the police encouraged, and even participated in, attacks made by migrant workers upon students and other residents of the black townships. Such attacks occurred in Soweto on 24th and 25th August 1976, when workers from the Zulu migrant labourers hostel attacked and killed a number of township residents. Several press reporters who witnessed the scene claimed that the migrant workers' attacks had been directed by members of the police force using loudhailers. Even more serious clashes occurred during the Christmas holiday period in Nyanga township near Cape Town. At least 26 people were killed and more than 100 injured. Subsequently, a multi-denominational group of churchmen issued a document entitled *Report on the Role of the Riot Police in the Burnings and Killings in Nyanga Township, Cape Town, Christmas 1976*. The document alleged that the riot police had fomented the killings and burnings in Nyanga and charged that they had both instigated and encouraged migrant workers to attack and kill township residents. The document also contained certain eye-witness accounts in which it was claimed that members of the riot police had accompanied the migrant workers, firing at township residents and pointing out victims for the migrants to kill. In one such account, a woman named only as "Mrs D.M." reported:

"On Sunday afternoon, 26 December, 1976, I was in my back yard when five vans with riot police came into 5th Avenue, Nyanga. I saw a riot policeman sitting in front on the bonnet. He shot at Mr M. Mr M is an elderly man, he was carrying no weapon, intending no harm. I had only just spoken to him as he passed my gate.

After the shot, Mr M. fell to the ground, bleeding at the stomach. I saw the riot policeman beckon with his arm, and a large group of migrants came running. The riot policeman pointed them to Mr M. on the ground and then left, as the migrants

The migrants carried sticks and axes. Some had petrol bombs; and I saw them throwing them into houses, setting them alight. The riot police never made any attempt to intervene and stop the violence, instead they came in with guns and opened the way for the migrants; instigating a group of them to attack us.”

In another statement, “Mrs G” of Zwelitsha, Nyanga, gave the following account:

“On Sunday, 26 December at about 2pm, the police told residents in our area to go back to their houses, as there was no danger. We returned to the houses—I myself went into a friend’s house a few doors down in the same block as my own house.

About half an hour later there were shouts that the police and migrants were attacking us. We bolted the door and I went to the window to close the curtains. I saw riot police and migrants inside the front yard. I was shot in the chest and arms by a riot policeman. The migrants then started to batter down the door. My two daughters dragged me into a toilet at the back, where we hid, until we thought the police and migrants had passed. Our houses were burning—there was fire everywhere.

We went to the road, where I was picked up by a resident driving a van, and taken to Tigerberg hospital. I heard later that my husband had been killed in our own front yard, a few doors along.”

The South African authority’s response to the publication of these claims was, first, to ban the *Report on the Role of the Riot Police* as an unlawful publication, and then to institute a court action against the principal author of the Report, Reverend David Russell, when he refused to divulge the names of his informants. David Russell, an Anglican churchman, was sentenced to three months’ imprisonment in February 1977.¹ Subsequently, in a memorandum prepared for Members of Parliament and entitled *The Riot Police and the Suppression of Truth*, David Russell described as “a mockery of justice and truth” the accusation that the Ministers’ Fraternal, the authors of the earlier *Report*, had produced documents harmful to race relations and the welfare of the State. He wrote:

“It is the activities of a section of the Riot Police that have had such a disastrous effect on race relations, and it is their activities which are so harmful to the long-term welfare of our country. It is their activities which are shattering confidence in structures of authority, and which will provoke desperate and despairing violence

¹ He appealed successfully against this sentence in August 1977, but was banned for five years under the Internal Security Act in October 1977.

in response. By exposing these shocking things, it was hoped and is hoped that those in authority would act to halt them. Instead it appears that we are being accused of the very evils we are so anxious to eradicate."

David Russell indicated that he had decided to prepare a memorandum for Members of Parliament because he felt that the activities of the riot police were a matter for urgent public concern and because he hoped that publicity would have a deterrent effect. He said that he did not expect any individual riot policemen to be prosecuted: "The fact that the Riot Police are purposely given no numbers on the uniforms, and that the Indemnity Act is soon likely to become law, does not lead me to believe that official inquiries will achieve much."

In January 1977, an Indemnity Bill was introduced in the South African Parliament by Minister of Justice, James Kruger. Under the terms of the Bill, which became law several months later, the State and its servants were indemnified against civil or criminal prosecution of any kind for acts committed "in good faith with the intent of suppressing or terminating internal disorder". The indemnity was given retroactive effect to 16 June 1976, the beginning of the Soweto disturbances. Introducing the second reading of the bill in the House of Assembly on 31 January 1977, Mr Kruger said:

"Those who gave rise to the unrest, and had a part in it, and in the process were injured or suffered damages, cannot expect to load the police with defending unfounded claims."

He added that false claims and the disruption of essential police work could result if the State and its officials, including the police, were not safeguarded against claims arising out of the civil disturbances. Mr Kruger said that compensation would be paid "in deserving cases". Mrs Helen Suzman, unsuccessfully opposing the passage of the bill, said that its introduction would cause people to "lose their last remnants of faith in the courts and justice".¹

The killings in Soweto and other black townships were not the first of their kind to occur in South Africa. On several occasions during the course of recent South African history, notably at Sharpeville in 1960, police have opened fire indiscriminately and with no justification on crowds of unarmed black demonstrators. Many civilian deaths have occurred as a result but at no time have the police been held responsible by the governing authorities. The events

¹ Quoted in the *Rand Daily Mail*, Johannesburg, 1 February 1977.

of 1976, therefore, were neither unique nor unprecedented. However, what was unprecedented was the massive extent of the killings, which surpassed all that went before, and the extremely excessive brutality of the methods employed by the police and the Government to suppress all expression of black political unrest.

Apartheid and Human Rights

The restrictions imposed by *apartheid* affect most aspects of life and severely circumscribe the fundamental human rights of all South Africans. Freedom of expression is limited by the authorities' extremely wide powers under the Internal Security Act and similar laws to ban all publications deemed undesirable, and by an effective system of press censorship which ensures that certain subjects receive little attention in the media. Journalists who do offend the government may expect to be subjected to security police harassment or arbitrary detention without trial. At least 15 black journalists who reported the riots in Soweto and other townships in 1976 were detained without charge or trial for periods of up to four months. In October 1977, the South African Government banned *The World* newspaper, which had the second highest circulation of any newspaper in the country, and its weekend edition, *Weekend World*. Percy Qdoza, the *World's* editor, and several other journalists, were detained under the Internal Security Act.

Freedom of association is also severely curtailed. The Immorality Act and the Prohibition of Mixed Marriages Act prohibit sexual relations and inter-marriage between peoples of different races, while the Group Areas Act sets aside separate areas of settlement for each race group. Separate schools and universities, and very different opportunities, exist for the children of each racial group, and there is little inter-racial contact in the political and cultural fields. Even sporting activities are largely segregated, despite concerted international pressure to bring about multi-racial sport. The restrictions on where a person may live effectively ensure that all black South Africans who reside in the 87 per cent of South Africa set aside for whites are officially regarded as "temporary" residents. As such, they are allowed no civil rights in that area and may be arbitrarily removed—"endorsed out"—to the "homelands" or "bantustans" set aside for African occupation. While in the "white" areas of South Africa, they are severely restricted as to their movements and are made to carry identity certificates—pass reference books—at all times. These are endorsed to show in which particular districts the bearer may work or reside, and must be carried at all times. More

than 250,000 people are arrested each year, and many of them imprisoned, on the grounds that they did not have their pass book when stopped by a policeman or were in the wrong area.

Apartheid's advocates claim that it is an ideology and a system which provides for the separate but parallel development of peoples whose skins are a different colour. Stripped of its pseudo-philosophical basis, however, *apartheid* is seen for what it really is—a justification for the continuing domination of the black majority population by South Africa's ruling white minority. It is a system of institutionalised racial segregation and racial domination which provides for discrimination against blacks in all walks of life. They are denied equal opportunities with whites in education, in employment and, most importantly, in determining by whom they should be led and by whom they should be governed. Blacks are treated as inferior human beings, and are condemned to a subservient role.

Apartheid creates countless victims. There are those who have had to live as squatters because they wish to have their wives and families with them, not hundreds of miles away on a rural African reserve, only to see their makeshift homes destroyed by the very government authorities who refuse to provide them with adequate housing and other normal facilities. There are those who are imprisoned because they fall foul of the country's discriminatory race laws. There are those 8,000 or more Africans who are detained in mental health institutions and who have been "farmed out" by the South African Government as cheap and easily exploitable labour to a private profit-making corporation. There are those who are "endorsed out" to African "homelands" and do not know when they will come to the end of their working life. And lastly, there are those who are subjected to arbitrary detention without trial, torture and even death because they oppose the existence of the *apartheid* system and demand governmental recognition of the fundamental human rights of all South Africans.