
RAINBOW TRIAL PLEA

We stand here charged with “terrorism”. The original main charge against us was treason. After the State had been questioned on our behalf, it withdrew this charge. The allegation then was that we sought to overthrow the State. The present indictment still attributes such an intent to us. What was and still is omitted is that the State referred to is the apartheid state.

Our understanding of treason is that it is a crime against the people. It would, for instance, be treason to betray the people of this country and to take up arms against them. But our people have been treasonably betrayed. The racist minority regime rules by force, through the barrel of the gun and without a mandate from the people. It has created an apartheid state and, in order to maintain and defend it, employs awesome weapons of war which it has unleashed against the citizenry of this country. One of the results is an ongoing international armed conflict in which the racist minority regime is ranged against the people of the country.

We believe that SA belongs to all who live in it and that no government can justly claim authority unless it is based on the will of the people. We accordingly abhor the apartheid state and, in so far as we have any choice in the matter, we owe it no allegiance whatsoever. We make no apologies for seeking its downfall. Nor do we believe that those who seek its demise, whether by international armed conflict or otherwise, should on that account be considered guilty of criminal conduct.

The regime therefore stands accused of treason and the people do not and will not withdraw that charge.

As for the charge we now face, we again say that it is the State that stands accused. In defence of its apartheid practices, this regime has brooked no opposition. Mass democratic organisations, the organisations of the people, have been silenced and their leaders gaoled or restricted. Tens of thousands of the regime’s political opponents have languished in gaol, having been detained without trial. Scores of others are forced to stand trial for so-called crimes against the State. This is called the maintenance of law and order. We call it terrorism.

It is terrorism too when innocent men, women and children are attacked by the regime’s police and SADF, and killed while they sleep, in foreign countries; we think of Maseru, Matola, Gaborone and others.

It is terrorism when this country’s neighbours are destabilised, all in the name of apartheid.

It is terrorism when assassination squads, operating inside and outside this country, hunt for and eliminate opponents of apartheid. We think of Ruth First, Jeanette Schoon, Pat Ndzima, Cassius Make, Abram Tiro and many others.

We recall with horror the cruel, violent and untimely deaths of many heroes of the struggle inside this country, all at the hands of the agents of this regime. It includes Joseph Mdluli, Steve Biko, Neil Aggett, Goniwe, Calata, Mhlawuli, Saul Mkhize, Hector Petersen, Timol and many others.

The roll-call is endless. It includes the hordes of our fallen comrades who have dared to march in protest against their oppression, together with the countless numbers who did not even march but were mowed down by the police and SADF in the townships of our land: Sharpeville, Langa, Nyanga, Soweto and elsewhere. We call this brutal, naked terrorism. This is terrorism in any language.

It is terrorism when, in the pursuit of apartheid, whole communities are uprooted — when extreme misery and poverty are the lot of certain sections of the population while others enjoy a standard of living which rates with the highest in the world.

We say that it is the regime that is guilty of terrorism. It would therefore be terrorism for us to identify with apartheid, or to condone a system that forces its youth to take up arms against fellow citizens, to defend the indefensible. Apartheid stands condemned as a crime against humanity. It has been declared a crime by the international community and has been rejected as a heresy and a sin by the religious community. Yet it has been allowed to devastate millions of lives in this country.

Most regrettably, apartheid has not left the legal system and the judicial process of this country untainted. With due respect to your Lordship and learned Assessors, we have to point out that an official Court in this country cannot ignore the laws to which it owes its existence, nor the body of laws which constitute the apartheid legal system: in other words it is enjoined to apply an unjust legal system.

One facet of the workings of the system has already been manifested in this case, in the course of events whereby we were arrested, detained, interrogated and brought to trial.

After our arrest, we were detained under Section 29 of the Internal Security Act, a provision which is, in practice, used only against the political opponents of the regime. It is a horrific legal provision and is in blatant disregard of the Rule of Law. The Security Police have not failed to take full advantage of its provisions; it enables them to operate in the dark and to extract maximum advantage to the maximum detriment of their victim. It enables them to exert all manner of pressures on the detained: psychological and physical torture, intimidation, coercion and assault. It exposes the detainee to dehumanising and degrading treatment, lengthy interrogation and months of solitary confinement without even the basic mental comforts such as reading material, access to family, friends and legal representation and advice. It is as though the system is designed to destroy the detainee’s mental faculties; it is in fact designed to break him, to force him to produce information which will be used against him at his trial. Having undergone the rigours of Section 29 ourselves, we are not surprised that political trials are characterised by a high number of “confessions” allegedly made by the accused. The courts have admitted numerous of these so-called confessions.

The Act stipulates that the detainee should be visited periodically by a magistrate as well as by other employees of the State. We were so visited. Some of us were also visited by the Judge President of this division. Our experience shows that these visits do not succeed to ameliorate in any substantial way the conditions under which we are kept. It would rather seem that they were designed to put a more humane veneer to barbaric treatment which is in effect sanctioned and countenanced by the law. Some of our comrades still bear painful reminders of their ordeal; they are still receiving medical and psychological treatment.

There is no doubt that the State is using the section as a terrorist weapon: to exact a terrible revenge on opponents of the regime's sterile and outdated policies. Eventually, when the victim has been thoroughly broken, he is brought before these courts to put a final stamp of credibility on the actions of the police. The Court then in effect becomes a mere tool of the oppressor.

The courts have, furthermore, failed to fight the erosion of civil liberties. The judiciary have, by their silence, allowed this erosion to gain momentum and the courts now find themselves bereft of their traditional role of an independent arbiter and protector of individual rights.

The total picture is therefore that of a regime which has treated the courts of this land with disdain. We cannot therefore have confidence in those Courts; they are not the Courts of the people of South Africa; they cannot dispense "justice" except in accordance with the guidelines and rules devised by the oppressor. Our ideal is that all shall be equal before the law; that the courts shall be representative of all the people.

While, therefore, we find ourselves compelled by circumstances to participate in the proceedings in this case, as we intend to do, we have no desire, nor do we find it at all necessary, to plead to the charges brought against us in this court.

Finally, we cannot fail to observe that there are numerous political trials before the courts in this country. Hundreds of our comrades, decent, sensitive and intelligent men and women are daily arraigned; they have but one thing in common: they pursue the same ideal of freedom which the fathers and grandfathers of today's rulers sought and fought for against the British. But they seek something more; they struggle for a new society where discrimination based on the colour of one's skin shall be a thing of the past. Hundreds of these noble souls already populate the gaols of this country. Thousands more have suffered severe deprivation whilst being held in detention for indefinite periods without trial, the anguish and desperation of it all sometimes driving some of them to adopt extreme measures, such as hunger strikes, in order to draw attention to their plight.

We in this Court are but a humble few. We tread a thorny path which is rapidly becoming a highway. We do expect pain, prison and death if need be.

But our cause is just. Therefore, and in accordance with the ideals enshrined in the Freedom Charter, we here, together with the rest of the people of South Africa, black and white — equals, countrymen, brothers and sisters — will strive together, sparing nothing of our strength and courage, until a just and democratic society is achieved.

Victory is certain.

South Africa shall be free.

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