

1977-04

TORTURE

IN

SOUTH

AFRICA



CHRISTIAN INSTITUTE OF SOUTHERN AFRICA

(representative in Europe)

April 1977

... to live in South Africa and to supply such factual information ... The Cape Town Office of the Christian Institute of Southern Africa, under the leadership of the Reverend Theo Krige, has issued this report ... of the growing concern over the allegations of acts of violence committed ... members of the Special Branch (Security Police) and ... It is an account of information which can be ... does not concern that which released prisoners ... Many would not want their experience ... by the police.

... used routinely to extract information, is ... today, it is possible ... will suffer all kinds of deprivations, will be ... and then may be released one day, without ... without being charged or tried and without rights of compensation.

... has been documented here is inconclusive proof of torture ... and having access to ... police brutality, violence and ... Most black people associate ordinary ... while security police offer the ... (police stations where torture is known ... deaths in detention are now ...

... South Africa high in the league of states which bolster ... This will be a saddening and shocking realization ... that its authorities work to uphold the basic ...

... are strong and terrifying enough to stand ... could otherwise have ... South Africa. Days after the report's publication ... "undesirable", in a special issue of ...

... be ordered from the ... Department of the Koninklijke Gedeputeerde Staten ...

... the printing and postage costs of this report may be ...
DVI 2-
equivalent DVI 2-
3 4-
... with the ...
...
Dutch ...
Utrecht

... that the contents of this ... to support those in ... to oppose and ... the growth of police

Very sincerely,
Theo Krige,
representing C.I. in Europe.



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APRIL 1977

The enclosed document poses a question which is on the lips of millions of South Africans: "Torture in South Africa?" People of all persuasions have raised the question.

There is nothing in this document that has not already been published but it is the first occasion on which the evidence has been put together for all to see.

It is a deeply disturbing picture that is presented in these pages. We would desperately like to believe that all this is untrue. But is it? We plead with the authorities to institute an independent enquiry, failing which we have no alternative but to believe it is true.

This is the week of Good Friday and Christians of all denominations will reflect upon our Lord who was tortured for us. We must ponder deeply and pray about the questions this document poses. We cannot ignore them. To do so would be, like Pilate, to wash our hands of our suffering Lord.

Our hope is that you will be motivated to demand with us that the detention laws be scrapped forthwith, that South Africa return to the Rule of Law under which all citizens are at all times protected from being tortured.

John Kiker

J. V. THEO. KOTER
REGIONAL DIRECTOR

TORTURE IN SOUTH AFRICA ?

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1. Summary of Security laws providing for incommunicado detention.

SOUTH AFRICAN SECURITY LEGISLATION PROVIDING FOR INCOMMUNICADO DETENTION. . . .

A brief summary.

1. The "90-day" Clause
 In 1963 South Africa set out on the path of arrest without warrant, detention without trial, no access to legal advisers, relatives or private medical doctors or priests, and most importantly no recourse to the courts of law for release. Section 17 of the General Law Amendment Act was passed in 1963. Under it, detainees could serve a succession of periods of 90 days - and did. Provision was made for a magistrate to visit a prisoner not less than once during each week. Following a good deal of protest, the Minister of Justice announced on 30th November 1964 that as from 11th January, 1965 the operation of the 90-day clause would be suspended.
2. In 1965 with the passing of Act No. 96 the 180-day law was put on the Statute book. The clause was an insertion of Section 215 bis of the Criminal Procedure Act of 1955, as amended. It provided for the detention of State witnesses (i.e. people who were intended ultimately to be brought as State witnesses) for up to 6 months incommunicado. The Act provided for a magistrate to visit a detainee at least once a week.
3. Section 22 of the General Law Amendment Act of 1966 provided that after 14 days the Commissioner of Police must apply to a judge for permission to hold a detainee longer.
4. Up to this point any Judge was able to visit any detainee or prisoner, whether held in gaol or in police custody, at any time.
5. Then in 1967 we got the Terrorism Act. Section 6 provides the least supervision over police treatment of detainees, including a news black-out on the detainees. These may be visited once a fortnight by a magistrate "if circumstances so permit". The right of a Judge to visit detainees is removed. Only the Minister of Police or an officer "in the performance of his official duties" may have access to the detainee, and only the Minister or policemen "shall be entitled to any official information relating to or obtained from any detainee". This includes Parliament. Hence when questions regarding detentions under the Terrorism Act are asked in Parliament, the Minister may reply (and has done so) that it is not in the public interest to disclose any particulars. Section 6 provides for unlimited period of detention until a detainee has "replied satisfactorily to all questions at the said interrogation".
6. Internal Security Amendment Act No. 79 of 1976
 Among many other wide powers of control provided under this Act, provision is made that if the Minister is satisfied that any person is engaging in activities which endanger or are calculated to endanger the security of the State or the maintenance of public order, the Minister may direct that this person be detained in custody in a prison area for a specified period. This provision will be in force only during

such period not exceeding twelve months at a time, and in such part of the Republic as the State President may from time to time determine

Over 100 people were interned under this Act for several months in 1976 and were released by 31st December.

The Act also makes provision for the detention of witnesses

Conditions for holding such detainees are similar to those provided under the "180-days" clause

7. Proclamation R.400 and 413 of 1960 apply only to the Transkei and remain in force, although that country is now designated independent. It provides that any persons suspected of committing an offence under regulations or any law, or of intending to do so, or of possessing information about an offence, may be arrested without warrant and held in custody until the police or prison authorities are satisfied that they have fully and truthfully answered all relevant questions put to them.

2. Conditions under which Terrorism Act detainees are held.

Detainees under the Terrorism Act are kept in solitary confinement for an unlimited period of time.

Not even the next of kin are necessarily entitled to be informed of the detention of a relative.

Detainees under the Terrorism Act have no right to reading and writing material

Such detainees may not study, sew, play cards, smoke, receive food parcels or clean clothing unless permission is specifically given

Section (ii) of the Terrorism Act deals with the responsibility of the Commissioner of Police to advise the Minister of Justice of the name of the detainee and the place of his confinement. Further, once a month the Commissioner is required to furnish the Minister with the reason why any detainee should not be released

A detainee may be released only when the Commissioner orders his release when satisfied that he has satisfactorily replied to all questions at the interrogation, or that no useful purpose will be served by his further detention

Terrorism Act detainees are held under "such conditions as the Commissioner of Prisons, subject to the directions of the Minister, may from time to time determine"

Section 6 (v) of the Terrorism Act provides that "No court of law shall pronounce upon the validity of any action taken under this section or order the release of any detainee."

**3. List of deaths in detention of "political" detainees.
Deaths following detention under South Africa's Security Laws.**

Date of death	Name of detainees	references.		
		IRR Survey	Newspaper	Hansard(Ass.)
5 9 63	NGUDLE, Looksmart Solwandle (Inquest: 21 10 63, banned posthumously 25 10 63)	'63 p.51	"Suicide, hanging"	'63,cols.143-5
9 63	MAMPE, Bellington (stated 140 days after his detention)			
24 1 64	TYITA, James (pre trial, found hanging in cell by scarf).			
9 9 64	SALOOJEE, Suliman (fell 7 floors from window, Security Police HQ, Johannesburg, during interrogation, multiple injuries. Magistrate: "no irregularities")	'64 p 65	RDM 2 2 65	
9 5 65	GAGA, Negeni (detained 9 5 65, under Transkei Proc. R 400; death from "natural causes")			
9 5 65	HOYE, Pongolasha (detained 8 5 65, under Transkei Proc. R 400, death from "natural causes")			
66	HAMAKWAYO, James (detained 26 8 66, 180-day clause, according to evidence ("suicide by hanging"). (in a Terrorism trial)			
9 10 66	*SHONYEKA, Hangula (det. under Criminal Procedure Act, 180 days, "suicide")			
19 11 66	PIN, L Y. (Leong) (det. 18 11 66, 180-day clause, died in Leeuwkop prison, Pretoria, "suicide by hanging")	'67 p 53)	"Star"	'67, 27 1 67,
5 1 67	YAN, Ah (det.30 11 66, 180-day clause, Silverton Police cells, "suicide by hanging")	'67 p 53)	12 12 66 19 1 67 16 10 67	Cols 238-9, 245-6
9 9 67	MADIBA, Alpheus, "suicide by hanging"	'67 p 53		
11 9 68	TUBAKWA, J B (det. 10 9 68, Terrorism Act.) "hanging (suicide)"	(70 p 54		'69, 18 4 69, Min of Police, col 4277.
Unknown	UNKNOWN - cause "unknown" (stated in Parliament 28 1 69)			
5.2 69	KGOATHE, Nicodimus (det. Terrorism Act 11.11 68, post mortem, broncho-pneumonia, possibly as result of minor head injury, bruises, abrasions. And 20.6.69, col. 8667 from having "slipped in shower", doctor believed these injuries were due to assault. At Inquest magistrate said on evidence before him, he was unable to record a finding as required by Inquest Act, No. 58/1959.) (HF Verwoerd Hospital, Pretoria) (of Bakwena tribe). RDM.29 3 69, 11 4.69, 7.6.69, 28.6.69, 14.7.69.	IRR Survey '70 p 54,		Hansard '69, 18.4.69 as above.
28 2 69	MODIPANE, Solomon (det. under Terrorism Act 25 2 69 "slipped on soap", sustained injuries. District Surgeon unable determine cause of death. Documents placed before a magistrate, who endorsed them "natural death - inquest not necessary" (Bakwena tribe)			Hansard '69: 18.4.69. Col.4277
	(Died H F. Verwoerd Hospital, Pretoria).	IRR '69, p.69		20.6.69.Col.8667.
10.3.69	LENKOE, James (det. Terrorism Act 6.3.69 Traces of copper, signs electric shock in toe: bruise below ear, marks on neck, shoulders; haemorrhage at base skull, Magistrate found "suicide by hanging", and death not due to offence on part of anyone. (Died Pretoria Local Prison). (Bakubeng tribe)	IRR '69 p.68	RDM 22.3.69; 24.5.69 28.6.69 20.8.69 6 9 69	(Same Hansard refs. as Modipane & Kgoathe)

- 1.6.69 MAYEKISO, Caleb (det. 14.5.69 Terrorism Act, IRR '70 p 54 Hansard
"natural causes" (from New Brighton, Port Elizabeth). 13.6.69, Col 7945
Night of SHIVUTE, Michael Detained 16.6.69 '70 p 54 Min Police, 3.2.70,
16-17th Death: "suicide" Hansard 1, col 98
June '69
- 10.9.69 MONNAKGOTLA, Jacob, Detained under '69 p 70, RDM
Terrorism Act Died Pretoria '70 p 54 11.9.69
District surgeon found he died from
"thrombosis" (Bakubeng tribal)
- 27.9.69 HARON, Imam Abdullah, Detained Terrorism Min Police, 10.6.
Act 26.5.69. Died Martland, Cape '70 69 Col 7622
(police cells) p 54
"fell downstairs". 26 bruises of different ages, broken rib, haematoma on back
Inquest magistrate unable determine how balance of injuries sustained, but he
died of heart trouble partly brought on by injuries.
- 21.1.71 (?) CUTHSELA, Mthayeni. First detained under Terrorism Act 21.12.70
apparently allowed home, then re-detained. From Pondoland, he was brought
to Umtata hospital, where son fetched his body. Face swollen, bruised, weals
on body, cut on head. Death due to "natural causes"
Inquest 3.8.71 '71 p 85 RDM 3.8.71
- 27.10.71 TIMOL, Ahmed Detained under Terrorism Act, fell from 10th floor win-
dow, John Vorster Square during IRR '71 p 91 RDM 23.6.72
interrogation

This death mentioned by Minister of Justice in 1967 without giving his name
Shonyeka's name given by Minister of Police in 1970 as one who committed suicide
on 9.10.66.

<u>Died on</u>	<u>Name</u>	<u>Age</u>	<u>Date & Act det under</u>	<u>Ref</u>
19.3.76	(23) MDLULI, Joseph	50	19.3.76 Crim Procedure	C.T 29.10.76
5.8.76	(24) MOHAPI, Mapetla	29	16.7.76 Terrorism	C.T 10.8.76
2.9.76	(25) MAZWEMBE, Luke	32	2.9.76 Gen Law Adt	World 4.9.76
25.9.76	(26) MBATHA, Dumisani	16	22.16.9.76 Terrorism	RDM 19.10.76
19.11.76	(27) MAMASILA, Ernest	34	16.11.76 Terrorism	RDM 18.1.77
26.11.76	(28) MOSALA, Thalo	31	8.76 Proc R 400 (Butterworth)	RDM 9.12.76
11.12.76	(29) TSHAZIBANE, Wellington Mlungisi	30	10.12.76 Terrorism	C.T 13.12.76
15.12.76	(30) BOTHA, George	32	10.12.76 Gen Law Adt	C.T 15.12.76
9.1.77	(31) NTSUNTSUN, Dr Nanaoeth	43	14.12.76 Terrorism	RDM 11.1.77
8.1.77	(32) NDZANGA, Law- rence	53	18.11.76 Terrorism (Charged 28.12.76, held at The Fort, wife in detention)	RDM 11.1.77
20.1.77	(33) MALELE, Eimon	52	10.1.77 Terrorism	RDM 21.1.77
15.2.77	(34) MABELANE, Matthews Marwale	22	21.1.77 Terrorism	C.T 16.2.77
22.2.77	(35) MALINGA, Samuel	45	Terrorism	C.T 24.2.77 RDM 24.2.77

TOTAL

1963 - 1971 22
March 1976 - Feb. 1977. 13
35 dead

(NOTES)

- On 5 2 77 Cape Times reported Unknown detainee, young, had fallen from the 4th storey window, Krugersdorp Police Station, and fractured his back hitting a concrete canopy, was in serious condition in Leratong Hospital.
 - MZOLO, Mr Edward (40) - detained at the Fort on 1 10 76, allegedly died in detention, according to Sunday Tribune 19 12 76 Not mentioned in press conference report with Minister Kruger
 - JOYI, Mr Twelime, ex Robben Island prisoner, involved in a shooting incident involving a traffic officer on 23 3 76 Disappeared and his body was found in Bashee River, near Idutywa, by children. Body was buried, but later exhumed for identification after report received by police. A first post-mortem revealed death was not caused by drowning. A second post-mortem was conducted by a Cape Town pathologist, Dr W Bunge, results of which would only be made known to police and members of Mr Joyi's family. Mr Joyi had been reported by newspapers as detained under Proc R 400, this may be true but may also have been confusion with his brothers, who are in detention, Mr A. and Chief B Joyi. (RDM 18 1 77 and Daily Dispatch 28 9 76)
 - BARBER, Mr R L reported died in detention after falling from wall at Durban Central Police Station Cape Times 17 2 77
 - UNKNOWN African man, police investigation death in Carleton police cells, reported RDM 6 10 76)
- "BAND WAGON" 11 3 77

4. Accounts of some "political" detainees who have died in custody.

- Mr Mthayeni Cuthsela
- Imam Haron
- Mr Nicodimus Kgoathe
- Mr James Lencoe
- Mr Solomon Modipane
- Mr Marks Monnakgotla
- Mr Joseph Mdtuli
- Mr Looksmart Solwendle Ngudle

CUTHSELA, Mr. Mthayeni.

Mr Cuthsela, an elderly African detained by Security Police at his kraal in Bizana, Pondoland on 21st December, 1970 died in police custody in hospital of "natural causes"

In an affidavit before Mr Justice Harcourt in the Maritzburg Supreme Court, by one of the accused, Mr Mfolwane Mbele, it was stated that Mr Cuthsela had been subjected to torture over a long period.

Mr Mbele said Mr Cuthsela had been taken into the Mkambathi forest near Lusikisiki. "Cuthsela told me daily he was being assaulted. He kept complaining about headaches. I heard him ask Capt. Baker for medicine. Baker answered 'The cause of your headache is that you do not want to tell the truth'. On another visit to the forest, in January, Mbele alleged that he and Cuthsela slept in the same tent and that Cuthsela had complained a great deal about pain in his head. "Next morning he was taken to the forest. He was brought back at sunset. He told me the police had constantly assaulted him. He said his body had taken more than he could stand." Mbele said Cuthsela asked to be shot because of this.

On 21st January a doctor found him to be seriously ill, police said, and he was admitted to hospital where he died soon afterwards of natural causes. Mr. Cuthsela's son said

that when he was taken to the hospital in Umtata by the police, his father's body was already in a closed, nailed coffin.

On 18.11.71 the Rand Daily Mail reported that the inquest date was set down for 14th December, and that Mr. Curhsele's body would not be exhumed. A post mortem immediately after his death had indicated he died from natural causes. The district surgeon and another doctor who carried out the post mortem certified that death was from a brain haemorrhage attributable to arteriosclerosis. An inquest was held on 3.8.71

R R Survey, 1971 P 85

In the Argus of 5.4.72 it was reported that allegations made by some of the accused in the terrorism trial about ill-treatment of detainees at the Pondoland police camp had been rejected by the Judge President of Natal, Mr Justice James

IMAM HARON.

Mrs. Catherine Taylor, M.P. put a series of unanswered questions in the Assembly on 18th September 1970 to the Minister of Police, Mr Lourens Muller, about the death of the former editor of "Muslim News", Imam Haron. The Imam died in police cells on 27.9.69 while being held in detention under the Terrorism Act.

Mrs. Taylor demanded to know what rôle Sgt. Andries van Wyk, brother of another interrogator, Det. Sgt. J.F.C. "Spyker" van Wyk, had played in the affair. She said: "I want to tell the House that my information, from confidential sources, is that Sgt. Andries van Wyk was involved in the assault upon the prisoner and that this assault was directly responsible for the subsequent decline in his physical condition during the last week of his life which finally led to the Imam's death on September 27th, 1969."

She asked the Minister whether there was any charge pending for culpable homicide against Sgt. van Wyk or any of the officers concerned.

Mrs. Taylor claimed the police department was dragging its heels in referring the matter to the Attorney-General.

Mr. Muller denied this, saying the police had themselves carried out a further investigation after the inquest. This was complete but the docket had been held back because he had been on holiday and wished to handle the matter himself. The docket was now on its way to the Attorney-General.

Mrs. Taylor said a judicial inquiry in the matter should have been appointed long ago. She asked:

- Why was the Imam interrogated from May 28th to August 11th – the best part of 76 days – with short intervals, for 7,5 hours every day? "No wonder the man became a nervous wreck. This is the kind of thing you expect in communist prisons and not in ours."
- Why had Major Dirk Genis, the security officer in charge of the case, been transferred to Bloemfontein almost immediately after the Imam's death? Why were two other detainees under the Terrorism Act linked with the Imam's case, released without explanation almost immediately after his death?
- During the time of interrogation had the conduct of Major Genis and Sgt. "Spyker" van Wyk always been "lawful"?
- Why was the judgment in the inquest not handed down till 5,5 months after the Imam's death?
- Why was there no satisfactory explanation, other than an alleged fall down some steps for the 28 bruises found all over the Imam's body, a broken rib and a haematoma (bloodfilled swelling) on his back?

- Why during his last week alive had the police themselves visited the Imam three times in the Marland cells, prescribing and themselves fetching pills from an officer's home, but refraining from taking him to a district surgeon?
- Why had his family, who till his last week alive had been regularly allowed to collect his linen for washing, been refused permission on September 18th and 25th to take away his dirty clothes? She said there was a clear implication that his clothes were bloodstained or torn
- What in fact happened to Haron between 17th and 19th September, when he "disappeared" from the Marland police cells and security officers at the inquest refused to say where they had taken him

"Yet it was during these three days that he was assaulted - at any rate, he came to some damage. The final assault, I suggest, was made at that time."

Mrs Taylor added that questions on his whereabouts at that period were disallowed by the inquest court on the grounds of "security"

"Now the general picture, it seems to me in this case, is quite horrifying. This healthy man, who was given a life insurance policy a year before he was arrested, was 45. He was interrogated incommunicado mercilessly for days on end for nearly four months, 7.5 hours at a time, until he was reduced to a state of nervous collapse

"No charge is brought against anyone - apart from him, not anyone - after 10 months of investigation. And one policeman after another tried to force him to make a statement containing what they wanted him to say

"And finally he collapsed and died. And no apparent anxiety attaches in official quarters to the manner of his death. No disciplinary action appears to have been taken against anyone

"All we have had so far is just a hard, cold, official rejection of public anxiety - more or less a rejection of the questions we put in the House which were dealt with in a very summary fashion

"No attention appears to have been paid, as far as we can see, to the magistrate's findings (there was no satisfactory explanation for all of the Imam's injuries)

Mr Muller denied that the matter had been delayed. He said that by instituting further investigations the police had, on their own initiative, done everything possible to clear the matter up (CAPE TIMES 19 9 70)

Mr Muller then went on to list several allegations of unlawful activities which the Imam was suspected to have been involved in over a period of years. They are not listed in this summary, as the Imam was not charged with these alleged offences in a court of law. He is dead and unable to deny them, should he have so wished. His family had to bear the pain of these allegations made under the privilege of the House of Assembly as well as the loss of a husband and father

The "Argus" of 30 9 70 reported that the Attorney General of the Cape had made a statement in view of the public interest in the matter. A further inquiry into Haron's death disclosed no evidence whatever which could serve as a basis for prosecution of any person

On 1st May, 1971 it was disclosed in Parliament that the State had paid the widow of Imam Haron an ex gratia amount of R 5000. On 9th June, 1971 Mrs C. Taylor, M.P. in a press statement, attacked the government for evading court cases by making ex gratia payments in cases where people detained without trial had died or been injured. "By this means publicity is avoided, the police are not called upon to give evidence, and the country is forced into silence and acceptance as a result."

(Cape Times 10.6.71).

KGOATHE, Mr. Nkoodimes.

Mr. Kgoathe was one of the Bakwena tribesmen detained on 11th November, 1968 under the Terrorism Act, following a tribal quarrel.

On 21st January, 1969 Mr. Kgoathe was taken from the Silverton police cells to the H.F. Verwoerd Hospital, Pretoria, where he died on 4th February. During his stay in hospital he was treated for lung and kidney infections. A post mortem gave the cause of death as bronchial pneumonia.

At the inquest, evidence was given that the police had found it necessary to investigate allegations that Mr. Kgoathe had been assaulted while being interrogated.

A district surgeon told the inquest court that he believed the injuries the deceased had suffered to have been the result of assault. He testified that when he examined Mr. Kgoathe shortly before his death, he found **MARKS ON HIS BODY WHICH COULD HAVE BEEN CAUSED BY A RAWHIDE WHIP AND WOUNDS WHICH COULD HAVE COME FROM AN ASSAULT WITH THE BUCKLE OF A BELT**.

The Doctor who arranged for him to be admitted to hospital told the inquest court that, in his opinion, Mr. Kgoathe was then suffering from the after effects of concussion. Mr. Kgoathe had told him that he had fallen in a shower room, but **ON BEING FURTHER QUESTIONED SAID THAT HE HAD BEEN ASSAULTED**.

This seemed to be the more likely explanation, since he had linear marks on his shoulders, and U-shaped wounds and other abrasions on his body.

A sergeant of the Silverton Police station testified that Mr. Kgoathe had complained of body pains and said that he had been assaulted by the Security Police during interrogation. However, he refused to lay any charge. Two members of the Security Police stated that during his interrogation Mr. Kgoathe had been allowed to take a shower, and had fallen in the shower room.

The magistrate found that on the evidence before him he was not in a position to conclude that any person was to blame for Mr. Kgoathe's death.

Mr. Kgoathe's widow sued the Prime Minister and the Minister of Police for damages of R 9000.

(R D M 29th March, 11th April, 7th June, 28th June, 4th July,
Sunday Times 23rd November, 1969
Race Relations Survey 1969 P 69)

LENCOE, Mr. James.

Mr. Lencoe, a Lesotho national employed in Johannesburg was arrested at his home in Soweto during the night of 5/6th March, 1969 and detained under the 180-day clause of the Criminal Procedure Act. (Also reported detained under the Terrorism Act.)

It was apparently not until 13th March that his wife was informed that he had died in the Pretoria Local Prison on 10th March, having hanged himself with his belt.

The prison surgeon had carried out a post mortem and found that death was due to hanging.

However, a second post-mortem was carried out at the request of Mr. Lencoe's widow. Lencoe's body was found hanging from a belt in his cell on 10th March 1969 after a day-long interrogation. At the inquest proceedings the widow, Mrs. Julia Lencoe, said that she could not identify the belt with which her husband had allegedly hanged himself. The only belt he had possessed had been left at home.

In May 1969 post mortem findings on Lencoe's body were considered by a forensic medicine scientist and a pathologist to be consistent with both hanging and electric shock.

Mrs. Lencoe's counsel told the court that there was medical evidence that proved

beyond doubt that Mr. Lencoe had been given an electric shock on the day he died. Three leading pathologists, one of whom had been brought out from the United States, testified that there was a mark on his toe that was consistent with a very recent electric burn mark. A State pathologist, under cross-examination, said he could not exclude the possibility that the mark might have been caused by an electric burn. The magistrate refused to allow certain political prisoners to be called from Robben Island to testify about allegations that a team of Security Police, under the direction of Major T.J.Swenepoel, had used electric shocks as one of their methods of interrogation. Major Swenepoel denied that detainees were ever given shocks. On 24th November, 1971 the Rand Daily Mail reported an exchange in another trial between Colonel Swenepoel and Adv.D.Soggot. Col. Swenepoel said that Mr.Soggot alleged at the Lenkoe inquest that he, the Colonel, had electrocuted Lenkoe. Mr. Soggot's world expert, Dr Morris, brought from America, had supported the allegation, but after he had been cross-examined, said Col. Swenepoel, he had not appeared to be a world expert.

Following the inquest in 1969 Mrs. Lencoe instituted a civil action against the Prime Minister, the Minister of Police, and Major Swenepoel for damages amounting to R 5000 in her personal capacity and R 5000 in her capacity as the mother of two minor children.

(The magistrate found that no satisfactory proof had been given of electric shock treatment and that no blame could be attached to any person. "Hanging, selfinflicted" was the verdict)

Argus 23.22.69, R.R Survey 1969, p.68.

MODIPANE, Mr. Solomon.

Like Mr. Nicodimus Kgoathe, Mr. Modipane was one of the Bakwena tribesmen involved in a tribal quarrel.

He was detained under the Terrorism Act on 25th February, 1969 and died three days later in the H.F. Verwoerd Hospital.

According to a press report, the head of the C.I.D. said that Mr. Modipane had received "certain injuries" when he slipped on a piece of soap, but that this was not necessarily the cause of death.

On 23rd May a magistrate endorsed the post mortem report that death was due to natural causes, and found that no inquest was necessary.

(R.D.M. 11.4.69; Minister of Police, Assembly 20 June, Hansard 19 col. 8667). (R.R. Relations Survey 1969 p.69)

MONNAKGOTLA, Mr. Marks.

In 1968 there was a tribal quarrel among the Bakubung in the Transvaal. Subsequently ten Africans were arrested on charges of assault with intent to commit murder. The trouble was investigated by Major T.J.Swenepoel, Chief Interrogation Officer of the Security Branch, who testified at the trial.

When the 10 accused appeared in the Rustenburg magistrate's court on 22nd January, 1969 to apply for bail, one of them, Marks Monnakgotla, told the magistrate that, in an attempt to induce him to make a statement, POLICEMEN HAD BEATEN HIM AND GIVEN HIM AN ELECTRIC SHOCK WHICH KNOCKED HIM UNCONSCIOUS.

On the next day the Pretoria Supreme Court granted an interim order restraining any member of the police from questioning him pending another hearing on 28th January, at which the police had indicated that they would oppose an application for the order

to be made permanent

On 24th January the arrested Africans again appeared in court in Rustenburg. The State withdrew the charge of assault. Before they could leave the dock they were re-arrested under the Terrorism Act. Their application for bail then fell away.

On the return date the Pretoria Supreme Court discharged the interim order and postponed Marks Monnakgotla's application sine die. The judge said it could be considered only after Marks had replied to evidence contained in an affidavit submitted on behalf of the police, who denied that he would, meanwhile, be assaulted in prison, the judge said.

The Minister of Police subsequently told the Assembly that Marks Monnakgotla's allegations of assault had been thoroughly investigated by a senior police officer. The matter was then referred to the attorney general, who refused to prosecute.

The 10 Africans were due to appear in the Supreme Court, Pretoria on 11th September, 1969 on charges under the Terrorism Act. On the night before their appearance, one of them, JACOB MONNAKGOTLA, died in detention, his death being certified to have been from natural causes.

(Race Relations Survey, 1969 pp. 66-69)

MR. JOSEPH MDLULI.

On 11.2.77 the "Daily Dispatch" reported the evidence given by a defence witness in the A.N.C. terrorism trial in the Supreme Court, Pietermaritzburg - namely Dr. Bernard van Straaten, a pathologist at the South African medico-legal laboratory in Durban.

Referring to the death of Mr. Joseph Mdluli in Special Branch custody on 19th March 1976, Dr. van Straaten said his immediate impressions were that death was due to strangulation, but after consulting with the chief Government pathologist, they decided that the cause of death should rather be associated with the application of force to the neck.

Dr. van Straaten said rigor mortis had set in fully when he first saw Mr. Mdluli's body shortly after midnight in an office at the Special Branch headquarters. He could have been dead up to 12 hours.

He was informed Mr. Mdluli had been sitting on a chair before rising and saying he was not feeling well. He then collapsed towards the doorway. No mention was made that he had collapsed and fallen over a chair, he said (as has been claimed by a Special Branch policeman).

A post mortem revealed Mr. Mdluli had numerous injuries that could not have been incurred in the alleged manner, said Dr. van Straaten. Among his injuries were extensive deep bruising of the scalp and abdominal muscles. Three of his ribs were fractured. His brain was extremely congested with small haemorrhages and the fluid inside the brain was bloodstained. His Adam's apple showed a fracture and there was extensive bruising to the neck which could only have been caused by force. The lungs were bloodcongested and waterlogged.

Dr. van Straaten said he thought the injuries could not have been caused in the way the fall was described. The injuries were of such a diffuse nature that it was unlikely they could have been caused by a single fall, the doctor said. He determined that Mr. Mdluli must have died simultaneously or very shortly after the injuries to his neck.

(Four Special Branch members were charged with culpable homicide arising from Mr. Mdluli's death, but were found not guilty. A further inquiry is being conducted.)

NGUDLE, Looksmart Schwandile.

Detained under 90-day clause on 19.8.63; found dead in his cell on 5.9.63. Inquest opened on 21.10.63. Counsel for the State was reported to have said that Mr. Ngudle had been interrogated on a number of occasions, and it had been made clear to him that he was to be brought to trial and what the consequences might be. On the day before his death he gave information to the police that led to other arrests. He apparently then realized that he faced death either by the proper processes of the law or at the hands of his previous associates.

Dr. G. Lowen, Counsel for the widow, submitted that this statement should not have been made, since Mr. Ngudle had not even been charged, let alone found guilty. He said that an advocate who had seen another prisoner was informed that Mr. Ngudle had not committed suicide but had died as the result of torture. There was an adjournment of the inquest. ON 25 TH OCTOBER the GOVERNMENT BANNED MR. NGUDLE, which meant that statements made by him during his life-time could not be quoted except in a court of law or with the Minister's permission. When the inquest resumed on 31st October, Dr. Lowen withdrew from the proceedings. An inquest by a magistrate was not a court, he said, thus he or his witnesses would have no protection if they quoted statements that had at any time been made by Mr. Ngudle. SOME OF THIS EVIDENCE WOULD HAVE SHOCKED THE MAGISTRATE. The District Surgeon, who performed the post mortem, said he was sure that Mr. Ngudle had hanged himself. He found no other injuries. THE INQUEST WAS THEN ADJOURNED. NEXT DAY THE DEPARTMENT OF JUSTICE AUTHORIZED THE PRODUCTION OF STATEMENTS BY BANNED PERSONS AT INQUEST PROCEEDINGS provided that a platform was not thereby given for the expression of such person's views.

R.R.Survey 1963, P.51).

(A "Cape Times" report on 5.5.64 of evidence given by Det. Sgt. Petrus Albertus Ferreira in a trial of 41 Africans on A.N.C. charges, disclosed that on 27.8.63 Ngudle was taken with others to Pretoria, all being in detention under the 90-day clause). On 4.9.63 Ngudle was interrogated all day by Det. Sgt. Ferreira. On the night of Sep. 4-5th, he "committed suicide in the police cells".)

IN FEBRUARY, 1964 at the resumed inquest, a Pretoria magistrate said he had visited Ngudle three times, with an interpreter but out of earshot of the police. On the first two occasions Ngudle had nothing to say. On the third he complained THAT HE HAD BEEN ASSAULTED TO FORCE HIM TO MAKE A STATEMENT, AND SAID HE HAD COUGHED UP BLOOD AS A RESULT. The magistrate reported this to the police NEXT DAY HE HEARD OF NGUDLE'S DEATH.

The counsel appearing for Ngudle's relatives applied to lead evidence about police ill-treatment of 90-day detainees, but this was RULED INADMISSIBLE. A medico-legal expert who carried out the autopsy said he had found no evidence of ill-treatment; and the police denied that assaults had taken place. THE PRESIDING MAGISTRATE FOUND THAT NGUDLE'S SUICIDE HAD NOT BEEN THE RESULT OF ANY ACT OR OMISSION AMOUNTING TO AN OFFENCE ON THE PART OF ANY PERSON ("The Star" 11.2.64). No finding was made on the allegations of assault.

(Assembly Hansard 1963 cols. 143-5.)

NOTE: Mr. Berrange, representing Ngudle's wife, was prepared to call evidence to establish what he called "a brutal and systematic technique of ill-treatment" by the

police of 90-day detainees. Six witnesses were prepared to give evidence on oath of shock treatment, and fourteen of beating up or assault. Isaac Tiale swore on oath that the police not only beat him up, but subjected him to electric shocks. The magistrate ruled that this evidence was "inadmissible", not because it was untrue, but because it was irrelevant to the inquiry.

Mr. Ngudie died in jail and was buried before his wife was advised
(Note from speech by Mr. J. Hamilton Russell
on the 26th February, 1964)

5. Allegations of torture of "political" detainees made in sworn affidavits, in the course of trials

- Two African detainees "deranged"
- Five Africans, Witbank trial
- The 22
- APDUSA Trial, Pietermaritzburg, Mr. P. A. Pillay
- A. N. C. Trial, Pietermaritzburg
- Mr. Vuyo Balemi
- Mr. Mohamed Essop
- Mr. Robin Evans
- Mr. Desinger Francis
- Mr. P. Golding
- Mr. B. L. Goschalk
- Mr. Mzimkulu Gwentshe
- Mr. Anthony Holiday
- Miss Stephanie Kemp
- Mr. Alan Brooks
- Mr. S. Maharaj
- Mr. Hugh Leven
- Messrs. J. Molokeng and A. Moletsane
- Mr. Jarius Kgokong
- Messrs. A. Mkhwenazi and P. Molele
- Mr. Z. Mothopeng
- Mr. Pheto, M.
- Mr. Tshabelala, P.
- Mr. McGlwe, P.
- Mr. G. Rudin
- Mr. I. Schermbucker
- Mr. N. Levy, Mr. P. Treshela, Dr. C. Gazides
- SASO/BPC trialists
- Mr. J. Schlapobersky
- Mr. V. Selento
- Mr. F. Sello (Alleges he was NOT assaulted)
- Mrs. Violet Weinberg and Miss Chloe Game

Plus: Accounts concerning L. Miss M. Smith, 2 Mr. K. Khadai(e)

Two African detainees "deranged".

It was reported on 18th November 1963 that two African detainees, MR T. TSOTSO and MR. M. MSINGIZANE, held in the Western Cape, had showed signs of mental derangement. The district surgeon was summoned, and after consultation with another

doctor, he applied for them to be admitted to a mental hospital for observation.
(R.R.SURVEY 1983, P.51)

Five Africans, Witbank trial.

On 1st February, 1977 allegations of torture and statements given under duress were made by the defence in the trial of 5 Africans (A. Malaza, A. Mkhonza, D. Magagula, R. Nkosi and S. Nkosi) appearing before Mr. Justice Curlewis in a special court in Witbank.

The charges arise from the riots and are of Sabotage, alternatively acts or arson or malicious damage to property.

Mr. H.G.de Vos, for the defence, said one of the accused HAD BEEN GIVEN SHOCK TREATMENT, and another, Mr. R.Nkosi, HAD HIS LEGS LIFTED ABOVE HIS HEAD AND HIS ARMS TIED TOGETHER BEHIND A POLE WHICH WAS PLACED BEHIND HIS KNEES.

(R.D.M 2.2.77)

Detention of the 22 (1969 - 70) - Trial on ANC charges, Acquittal; immediate re-detention; re-trial, acquittal.

The State appealed and lost. The 19 remaining were banned.

On 15th December 1969, in the Supreme Court, Pretoria, MISS SHANTI NAIDOO described how she had been interrogated during her detention. She was questioned for 5 days without sleep:

"My mind went completely blank, and I went to sleep standing, and I had a sort of dream in which I was actually speaking to the officers who were interrogating me, in my sleep, and afterwards when I had sort of regained my senses, I was interrogated on this dream I had which was nonsense." (C.T. 16.12.69).

Miss Iris Madikizela, sister of Mrs Winnie Mandela (one of the 22 accused) said in papers before the court on 20.2.70 that her sister had been arrested in May 1969 and had been kept in solitary confinement till a court appearance on October 28th. The trial started on December 1st and on December 15th was postponed for the holiday recess till 16th January 1970. At that date the State stopped the prosecution. Her sister and the other Africans discharged had been re-detained under the Terrorism Act. The trial had brought to light evidence by several witnesses that they had been made to stand for long periods without sleep. As a result of their re-detention, her sister and the others were again at the mercy of the interrogators and she feared they would be again interrogated in the same manner.

Mr. S.Kentridge, S.C. appeared for the applicants. Several affidavits were presented.

NDZANGA, Mr. Lawrence and Mrs. Rita.

(These people were re-detained in 1978 and held in The Fort, Johannesburg. They were about to be charged in court, when Mr. Ndzanga died, it was stated of a heart attack at the evening meal in the Fort. He died on 9.1.77).

In his affidavit, Mr. Ndzanga said he had been made to stand on three bricks for hours during interrogation. "When I asked for permission to go to the toilet, Major Swenepoel refused. I passed water while standing on the bricks." He said Major Swenepoel attempted to smear the name of Mrs. Mandela. "I was then in such pain that I told myself that if I could get out of Compol, I was prepared to run under a bus, because those days in South Africa were bad for me."

Mrs. Rita Ndzanga in her affidavit said "When the police said I must take off my shoes and stand on the bricks, I refused. One white cop stood on the chair and pulled me

by my hair and dropped me on the bricks. He kept on pulling my hair roughly, and I fell on a metal gas pipe."

Nankoo Paulus Matshaba.

Mr. Matshaba said he had been assaulted at Compol during May and June, 1969. "There was one policeman who assaulted me by using karate. He told me that he was a German. He would hit me with a karate kick and I would fly in the air and fall hard on the floor. The other police said they would assault me until I died. The German said that he felt like killing me. I was also made to stand on three bricks and hold one brick above my head. During the assault, the German told me boastfully that the next person to enter Compol would be Mrs. Helen Suzman. When I showed some signs of tiring while standing on the bricks, the police beat my elbows with a sjambok."

(Note: In June, 1970 the public was led to believe that Paulus Matshaba had been freed from custody. However, he and two other detainees could not be found. Suddenly Mr. Matshaba appeared having been released from the Westkoppies Mental Hospital.

The Civil Rights League, Cape Town called on the Government to repeal certain clauses of the Terrorism Act. The League "would like to know where the other two men are. . . The public is entitled to a full explanation of the reasons for Mr. Matshaba's referral to Westkoppies Mental Hospital. Failing such an explanation, the public will continue to guess at the reasons, and cannot be blamed for thinking that Mr. Matshaba's condition might have been the result of his treatment and confinement while under detention." C. T. 25.6.70)

Shabenge, Mr. Elliot.

"Major Swenepoel made me stand on three bricks from 19 May to 22 May. There was a round electric light above my head which burnt my skull. My moustache was pulled out by the police."

Sikalala, Mr. Joseph.

"In the interrogation room I was ordered by the police to kill cockroaches, which ran around in the room, with my bare hands. After that, the police assaulted me with karate and my face bled. When I was taken back to jail, I was made to eat without washing my hands.

Tsotetsi, Mr. David.

"I was assaulted by the police, who kicked and punched me. One policeman had a sjambok with an iron ring at the end, and beat my genitals with it." (This was after a lieutenant had ordered him to "kook" him) "An African cop tied my hands with a rope and told me that he would hang me and break my ribs."

Pholoto, Mr. Samsel.

White policemen punched and kicked me. One asked me what I thought of William Peta and James Lenkoe who died in detention. He was interrupted by another Security policeman when he asked me these questions. He then handcuffed me and tied a rope around the handcuffs and suspended me on the rafters. I was assaulted and sjambokked. When I went for the 4th interrogation I was asked to climb on the bricks again. I started thinking what had happened to me when I was interrogated previously, and fainted. I lost consciousness, I don't know for how long. When I regained it, Sgt Erasmus was kneeling beside me as if checking my pulse. Major Swenepoel said I was going to die. I was then taken back to jail."

Magubane, Mr. Peter **

"I was made to stand on the bricks and assaulted. The police kept on pestering me about Mrs. M's private life and political activities. They said they didn't want to embarrass her, but if it came to the push, they would smear her name. At this stage, I was urinating blood and Major Swenepoel gave me a tablet." (Mr. Magubane was detained in 1976. He won an award for his work as a cameraman recently. He is employed by the Rand Daily Mail.)

(Affidavits published in "Cape Times" 21.2.70 and POST (Cape Edition) 1.3.70)

**** Add: Mr. Peter Magubane.**

On 30th December the Daily Dispatch reported that Mr. Magubane was among those released from detention under the Internal Security Act on the Wednesday.

Mr. Magubane told the B.B.C. he had been assaulted twice by police. The first time had been with a revolver butt. This had put him in hospital for five days.

"On my release a week after that I was detained" he said.

"I have laid charges but nothing has come out of that. We are still waiting."

Mr. Magubane said he had been "put behind bars because of the truth my pictures were telling about the Soweto riots."

Note re affidavits (case of the 22).

When the urgent application was brought before Mr. Justice Theron for an order protecting the 22 - who had been redetained immediately after their acquittal - from assault by the interrogators, the Supreme Court was told that the State would in future oppose applications for such orders.

Senior Counsel told Mr. Justice Theron that in future these applications would not be allowed to go through by consent, BECAUSE OF THE WAY THE OVERSEA PRESS HAD CLAIMED THAT THE CONSENT WAS PROOF THAT ASSAULTS DID IN FACT TAKE PLACE.

Mr. S. Kentridge, Q.C., who appeared for the applicants, said the detainees had been re-detained under the Terrorism Act for the same reasons. Therefore they would be interrogated again under Section 6 of the Act and it could be assumed that they could be assaulted again. He submitted that what was said by the overseas Press was irrelevant to the matter before Court.

("Cape Times" 21.2.70)

State witness admits maltreatment.

On 22nd October, 1971, at the trial in the Supreme Court, Pietermaritzburg under the Terrorism Act of members of APDUSA, a State witness, MR. LEO SIJAJI, was cross-examined by Mr. I. Mohamed for the defence.

Mr. Sijaji said he was arrested about midnight on 22nd February and taken to Compol Buildings, Pretoria.

"In Pretoria I was told I was arrested under the Terrorism Act and it was made clear that I would be kept in detention until I answered questions satisfactorily.

The interrogation was conducted by many policemen from time to time."

His interrogation lasted approximately 18 hours "and I had no sleep at all during that period. I was standing most of the 18 hours." It had been an exhausting experience.

Mr. Mohamed: "Why were you standing for so long. Why didn't you sit down?"

Mr.S. "I can offer no explanation."

Mr. Mahomed: "Were you not allowed to sit down?"

Mr. S.: "I was not offered a chair to sit down."

The next day, said Mr. Sijaji, he made a sworn statement. He was in solitary confinement from 22nd February until 20th April. He was a gregarious person, he said, and it was a painful experience.

Mr. Mahomed: "Did you find yourself during this period of solitary confinement in a state of complete disorientation?"

Mr. S.: "I was at first".

Mr. Mahomed: "Were you close to a complete nervous breakdown?"

Mr. S.: "I admit, I was at first."

Mr. Sijaji, when asked whether he was acutely depressed, said the degrees of depression, to his mind, were not something that could be measured. He died while in a state of depression and he thought it natural of various people to cry in such circumstances. (R.D.M. 23.10.71).

Pilley, Mr. P.A.

On 13th August, 1971 Mrs. N.Pilley of Durban made an urgent application to the Supreme Court, Pietermaritzburg, on behalf of her husband, to restrain the Security Police from interrogating him. Mr. P.A.Pilley had shortly before been detained for a second time in connection with the pending trial of the APDUSA members and had been subpoenaed as a witness.

Affidavits by 12 of the accused were placed before the court, alleging that methods of interrogation used by the Security Police included:

Electric shock treatment;

Forcing people to stand barefooted on the edges of bricks for hours at a time;

Compelling them to lift weights while wearing shoes containing pebbles;

Making them hold weights above their heads for long periods.

Handcuffing them to trees all night.

Forcing them to sit on imaginary chairs until their muscles collapsed.

Kicking and punching.

It was alleged that one detainee had tried to cut his throat after hearing screams from a fellow-detainee during an interrogation session. These events were stated to have taken place in the Mkhambathi Forest in Pondoland.

Mr. Pilley, an attorney, feared that the police would use similar methods against him, his wife said.

In a settlement which was made an order of court, Mrs. Pilley's advocate accepted an undertaking from the head of the Security Police that her husband would not be removed from the police station in Maritzburg nor be unlawfully interrogated.

It was announced that the police had investigated the allegations of assault, and the dockets had been handed to the Attorney-General for decision whether action should be taken.

During November, 1971 each of the twelve detainees sent a letter to the Minister of Police claiming R 10.000 for unlawful assault by members of the Security Police.

The Sunday Times on 2.4.72 reported that defence advocates, Mr. D.Soggot, told the court that solitary confinement, or the threat of it, was sufficient to make a detainee say whatever the police expected from him. He said:

"Solitary confinement has been accepted in civilised countries as a very brutal form of punishment. Prison regulations provide that solitary confinement be im-

posed only for the gravest infringements and only under the most rigorous control – and then for no more than a month. Yet detainees under the Terrorism Act are held for months in solitary confinement with no controls at all.”

Mr. Soggot said that when allegations were made by the accused that the Security Police had been brutal to them or had tortured them, this was dismissed by the police as propaganda against the State.

He said there had been evidence from STATE WITNESSES that the police had extracted statements by threats of solitary confinement or violence against them. The witnesses had been told by the police precisely what they wanted from them. If these allegations were true, the court was faced with the insuperable task of determining whether the evidence of a witness was true or whether it was extracted from him. Mr. Soggot gave examples of replies given by STATE witnesses:

- They said that if I did not answer they would keep me locked up. I had a great fear of solitary.
- I knew what they wanted and the Security Branch was satisfied when I admitted military training.
- I denied military training and so was locked up overnight.
- Van Wyk threatened to kick me.
- I knew it was detention in terms of the Terrorism Act. I knew of the effect of solitary confinement, including hallucinations.
- Van Dyk smacked me in the face. It was a hard blow and I was dizzy.
- I feared torture at the hands of Spyker (Van Wyk).
- In my anxiety to get out I would have agreed to anything.
- I believed the allegations against the Police and I believed that Spyker had murdered the Imam. All of us believed the allegations.

(Sunday Times 2.4.72) (For judgment on allegations of ill-treatment of detainees, see Appendix).

A.N.C. Terrorism Trial, Pietermaritzburg.

On 4.10.76 a State witness, Michael Gumede, testified before Mr. Justice Howard in the Supreme Court, that he had been detained on 30th November, 1975. He stated that he had been tortured by Security Police and that they threatened to continue torturing him if he did not agree that he had been recruited for military training. He was **HIT AND SLAPPED** by white policemen. On another occasion they **PUT STONES IN HIS SHOES AND MADE HIM STAND ON TIPTOE**. One of the Policemen then **TIED A BRICK TO HIS TESTICLES**.

Mr. Justice Howard told Mr. Neil Rossouw, the deputy Attorney General and State Prosecutor: "Please see that these allegations of assault are thoroughly investigated and the necessary steps towards justice taken."

Cross-examined by Mr. George Muller, Q.C. defending, Mr. Gumede said he was taken to the Loop Street police station where he saw a Mr. Xaba.

Mr. Muller: "Mr. Xaba claims he heard you crying out and asking for mercy and to be forgiven."

Mr. Gumede: "Yes. They were hitting me."

Mr. Gumede said he was released but the police told him "to stick to the statement I made otherwise I would be arrested."

Mr. Muller: "You were afraid, weren't you?"

Mr. Gumede: "Yes, I was afraid."

(R.D.M. 5.10.76)

The Judge, Mr. Justice Howard, said he was not prepared to exclude evidence at this stage, but would make a decision later.

Mr. Gwala said he was interrogated for weeks by several senior police officers. On one occasion he was made to stand through the night while two senior police officers told him they knew of his activities and connections with the A.N.C.

He said he was suffering from asthma at the time and was trembling all over. When he became drowsy, he was taken outside into the drizzle to freshen him up.

A Lieut. Coetzee, he said, walked around him "like a dog wanting to bite someone's testicles." The Lieutenant had said he would catch hold of his (Mr. Gwala's) testicles and make him "pass faeces".

Mr. Gwala said he continued to deny having recruited people for military training. He later reached a stage when he could no longer eat, as he was troubled by asthma attacks. He was then given an opportunity to rest and write a statement, which was continually returned to him because it was not satisfactory.

On 7th January Captain Volliter informed him that because certain A.N.C. papers could not be found at his house, the rest of his family would be arrested. Some of the police treated him violently, he said. He asked to see a visiting magistrate so he could make his will, as he feared that he didn't have much longer to live.

He had been in custody since November 30th, 1975 but it was not until December 16th that he was allowed to wash. "I was like a wild animal", he said.

("Daily Dispatch" 4.12.76; "Natal Mercury" 4.12.76).

Khanyile, Mr. William.

On 10th December, 1976, Mr. Khanyile, one of the accused gave evidence. The Deputy Attorney-General for Natal, Mr. D.J. Rossouw, stated that Mr. Khanyile had filed a R. 5.000 damages claim against the Minister of Police. This was for alleged assaults by Security Branch Officers between 5th December, 1975 and 14th May, 1976. Mr. Khanyile denied this and said he had only been assaulted once, on 5th December. There might have been a mistake in the particulars drawn up by his attorney.

Mr. Justice Howard said the allegations were serious and the court was determined to get to the bottom of them. He asked Mr. Khanyile in what manner he had been assaulted at the Security police offices in Fisher Street. Mr. Khanyile said he had been struck with a fist and kicked. The Judge told him to think carefully and say precisely what he had told the District Surgeon "because it is possible that the Magistrate and District Surgeon will be called to give evidence."

Mr. Khanyile said although he did not remember clearly, he had told the doctor he had an injured ear.

("Daily Dispatch" 11.12.76; "Natal Mercury" 11.12.76).

Meyiwa, Mr. Mathew.

On 13th December, 1976, Mr. Meyiwa, also an accused, said his mind started to slip while under constant interrogation. He often played with mosquitoes. He said Security Police had threatened to refuse him food parcels and that he would be kept in his cell until he rotted if he did not answer questions the way they wanted.

"We were not allowed exercise or to talk to the other prisoners. My cell light was kept burning constantly. To keep myself occupied I would sing, and eventually my mind started to slip" he said.

Mr. Meyiwa said the police tried to make him confess to ANC activities. In January 1976 he was removed to the Maritzburg Prison to a filthy cell infested with cockroaches.

("R.D.M." 14.12.76)

NENE, Mr. John.

On 21.1.77, Mr. Nene, another accused, said Security Branch police threatened to shoot him with weapons that had belonged to terrorists.

He said that on 30th November, 1975 he was severely assaulted by members of the Security Branch. In a 20-hour period he was **KICKED AND PUNCHED, THROTTLED SO THAT HE FAINTED THREE TIMES, MADE TO WALK WITH GRAVEL IN HIS SHOES, AND THREATENED WITH DEATH BY SHOOTING OR FALLING FROM A WINDOW**, Mr. Nene testified.

He was made to stand most of the time, and at various stages the handcuffs holding his hands behind his back were jerked.

HE WAS HIT ACROSS THE BACK WITH A FLAT PLANK AND KNOCKED CONTINUALLY ON THE HEAD AND CHEST WITH A RAISED INDEX FINGER

He was transferred to the cells at Howick, where the interrogation continued. He was not assaulted again, but the solitary confinement continued. He said a Sgt. Garrington had treated him well by giving him food and milk.

Interrogation took the form of repeating the same questions and facts "until it entered one's mind, so that something that was not so appeared to be so", he said.

A Special Branch policeman from Durban said that if he (Mr. Nene) elected to work with the Government he would be released. Otherwise he would be sent to Robben Island for 20 years.

On March 18th, 1976 he was transferred to the Burger Street Gaol to a cell infested with cockroaches. "In the beginning I didn't like them, but after a time I played with them and looked upon them as people in my cell", he said.

(Natal Mercury, 22.1.77)

XABA, Mr. Anton Fano.

On 12.1.77 Mr. Xaba, an accused, told the Supreme Court that Security Branch policemen carried him to **AN UPSTAIRS WINDOW AND THREATENED TO THROW HIM OUT**. This took place at the Loop Street offices of the Security Branch. After his detention on 30th November, 1975 he was interrogated there for more than 40 hours. He was hit and kicked while Colonel J.G. Dreyer, Divisional Commander of the Security Branch in Natal, looked on.

WHILE HE WAS BEING STRUCK, SEVERAL POLICEMEN PICKED HIM UP AND CARRIED HIM TO THE WINDOW. THEY THREATENED TO THROW HIM OUT AND ADDED THAT: 'I ought to know how Timol had died', Mr. Xaba said. "I was crying at the time, and pleaded with them to let me go."

Blood ran from his nose as a result of the assault, he said.

Gravel was put in his shoes and he then was made to do exercises. His head was banged against the wall.

Police told him to write about the people he had recruited for military training. After the 40-hour interrogation he was exhausted, his body was sore and "my mind was like that of a mad person - I was confused."

He stated that throughout the time he was kept in the Loop Street cells he refused to write anything and declined to turn State witness. He was kept in solitary confinement in a cell infested with lice and fleas until the end of December, 1975 when he was transferred to the Burger Street Gaol.

(Natal Mercury, 13.1.77)

NDEBELE, Mr. Azzari.

An accused, told the court on 25.1.77 that he had been kept in solitary confinement from the time of his detention by the Security Branch on 5th December 1975 until

his first court appearance on 14th May, 1976.

This had a bad effect on him. His whole body ached and his mind was also affected — he could not remember the names of his children, and was forgetting previous events. He played in his cell with ants and mosquitoes.

On the first day of interrogation, Mr. Ndebele said, he was made to stand with his arms outstretched for about three hours. He was told he was being detained under Section 6 of the Terrorism Act and could be locked up for six months without seeing anyone and there was nothing his attorneys could do about it. If he were convicted he could be detained for at least 15 years he was told.

The Security Police asked him about recruits being sent overseas for military training and he was not believed when he said he had no knowledge of such matters.

(Natal Mercury 26.1.77)

MDLALOSE, Mr. Zakhela.

On 26.1.77 Mr. Mdlalose, also an accused, told the court he was detained on 5th December, 1975 and taken to the Security Branch offices in Loop Street, Pietermaritzburg, where he was interrogated for several hours. On the same day he was taken by road to the Greytown cells. On the third day of interrogation, two men from the Greytown Security Branch came to his cell and accused him of sending children away for training, so that when they returned they would be given firearms and told to kill. Mr. Mdlalose said on the fourth day of interrogation he was left in a storeroom with two African policemen. His shoes were removed, filled with gravel, and put back on his feet. He was made to exercise against the wall as if he was sitting on a chair, at the same time using his arms and flexing his fingers. This continued until he fell to the floor.

The policemen helped him to stand erect. Then one stood on his foot on one side and the other did the same on the other. One said he would vomit up what he should speak. They slapped him on the jaw with open hands. After some time the stones were removed. After a while a white policeman returned and laughed to find him sweating and when told he had "taken exercise"

(Natal Mercury 27.1.77)

MAGUBANE, Mr. Vusimusi Trumen.

On 31.1.77 Mr. Magubane, accused, told the court he was detained on 30.11.75 and held in solitary confinement in a cell at Howick. He was interrogated by Security Police each day for more than two weeks. On one occasion he was asked to be a State witness at the trial, but refused. He was depressed because he knew his wife was not working and he wondered if his family had enough food. He thought he would never see his brothers and sisters again. Sometimes he cried.

Although he was in solitary confinement, he had been able to shout to other prisoners through his cell window.

During one such conversation, Mr. Michael Gumede, who was in an adjoining cell, told Mr. Magubane that he had been assaulted by the Security Police. Mr. Gumede told him he had denied being recruited for military training outside South Africa, but after being further assaulted by having a weight TIED TO HIS TESTES, he had admitted having been recruited."

(Natal Mercury 1.2.77)

KHUZWAYO, Mr. Judson.

Mr. Khuzwayo, a State witness, told the court that he had been assured by the Security Police that he would never walk the streets of Durban again unless he agreed that he

had been visited by people from Swaziland, including Mr Joseph Mdluli who had died in security police detention.

Mr. Khuzwayo was a former prisoner on Robben Island.

Although he was promised that he would be released from his detention (he was detained on 5th December, 1975 and taken to Security Branch offices in Fisher Street) if he agreed to the allegations, Mr. Khuzwayo said that he refused to admit something he knew nothing about.

He was accused of trying to revive the ANC and about various political contacts he had made. "I then hear terribly heartbreaking crying from another office", Mr Khuzwayo said. One of the African security police asked him whether he could hear what was being done to his friend, as the same would happen to him if he didn't say what the police wanted him to say. He replied he was not prepared to lie.

He was later taken to the Hillcrest Police Station where he was kept in solitary confinement until 19th February when he was released.

He had been asked to write a statement about a Mr Mthunywa and activities of the ANC but denied any knowledge of the accusations.

Later a lieutenant told him that because he was being detained and refused to cooperate with the police, "many things were happening to my family". After keeping him in suspense for about 20 minutes, he was told that his sister had died.

He made a statement and was then released.

Mr. Khuzwayo said solitary confinement had affected him and "there was a tendency for one to agree although I had no knowledge of certain allegations."

On 10th June HE WAS DETAINED AGAIN and kept in solitary confinement until 26th August. He was eventually released from custody on 2nd November, 1976.

 ** ADD: TO STORY OF MR JOSEPH NDULI (see p.3)

On 2nd July, 1976 Mr. Nduli said he had been taken to a camp in Kosi Bay, Zululand. He alleged he had been subjected to continuous interrogation, torture and "third degree" and made to stand blindfolded for 5 days and nights. He was beaten on the shoulders and hung from the rafters by a rope around his neck. While in this position he was given electric shocks. ("Band Wagon" No 9, p 41)

BALENI, Mr. Vuyo, Port Elizabeth.

On 4th June, 1976 in the trial of 5 men in the Supreme Court, Grahamstown on charges under the Terrorism Act, the first State witness, Mr. Vuyo Baleni of Port Elizabeth, stated during cross-examination that he had tried to cut his wrists and arms with a razor blade, and had been ill, during February and May while in detention at the Fort Glamorgan prison, East London. He claimed that he had repeatedly asked for medication for his nerves and was given some tablets by the warders.

On 7th June Mr. Baleni stood down as a witness, and was admitted to the Fort England Mental Hospital for observation. Dr A.J.L.Pentz, medical superintendent of the hospital, told the court he had examined Baleni, who appeared to be "in a disturbed state of mind".

On 9th June Dr Pentz reported that he had again seen Mr Baleni, who had gone into a psychotic state, ripped off most of his clothes and needed psychiatric treatment.

On 30th August, Dr D.F.Anderson, superintendent of the Tower Mental Hospital, was called by the state to report on Mr Baleni. Dr. Anderson said he had "certified" Mr. Baleni, whom he classified as an hysteric, not always fully responsible for his actions.

Questioned by the defence, Dr Anderson said that in detention affinities built up between detainees and interrogators, and detainees became suggestible. The fact

that Mr. Baleni was unwilling to give evidence against his former friends, but had been required to do so, **COULD HAVE LED TO A MENTAL BREAKDOWN**, he said.

Asked by Mr. Justice Stewart to what extent reliance could be placed by the court on Mr. Baleni's evidence, Dr. Anderson said that if Mr. Baleni did not appear "normal" in court, he would question the reliability of the evidence.

Mr. Kies, for the defence, then asked: "To what extent can we then place reliance on the evidence of other witnesses, who have not broken down, but were in solitary confinement?"

Dr. Anderson said if the mode of giving evidence was like that of a "normal witness" it should be reliable.

Race Relations Survey, 1976, p. 136, p. 137.

ESSOP, Mohamed Salim (21).

In the Supreme Court, Pretoria, on 22.2.72 Mr. Justice Marais and Mr. Justice Theron heard evidence relating to the illness of a "political" detainee, Mr. Mohamed Essop. It was the return day of a temporary order preventing the Security police from assaulting Essop.

The Chief District Surgeon of Johannesburg, Dr. V. Kemp, said he was the first medical man to examine Mr. Essop on 26th October 1971 at John Vorster Square. He found Essop sitting against the wall on the floor of the interrogation room. Essop was in a semi-conscious state and appeared to be in a condition of hysteria. He noticed injuries on the right forearm, below the knees, below the right eye and on the lobe of the ear. There was also a bruise on the lower lip. The injuries were of a minor nature. Questioned about a rubber glove on Mr. Essop's private parts, he said it was probably a catheter. "He was clearly in distress" he said.

Mr. Essop was admitted to the Johannesburg General Hospital where Dr. H. Podlas, a medical superintendent, said she knew that Mr. Essop was a "Security Police case". She also said that a patient's relatives were entitled to know when he was in hospital. Sister K. Napo said she had been given instructions by Security Police not to allow any people in to see Mr. Essop. Mr. I. A. Marsels, Q.C., who appeared for Mr. Essop's father, asked:

"You told his father a lie when you spoke to him and said his son was not there."

Sr. Napo: "Yes, I told him that on the instructions of the police."

Sr. Napo stated also that when Mr. Essop was taken away, she found the police had taken with them his temperature chart and prescription sheet. It was not customary for hospital records to be taken away. (R.D.M. 23.2.72)

Mr. Essop had been detained on 23.10.71 together with Mr. A. Timol (who died when he fell from the 10th floor at John Vorster Square) in connection with charges relating to the banned A.N.C. and S.A. Communist Party. When his father heard through a journalist that his son was in a public hospital, he went there immediately, but his son's presence was denied. The father however saw his son through a fanlight, gaining the impression that he was seriously ill. He then made an urgent application to the Supreme Court for an order against the police.

On the return date a full bench of the Supreme Court confirmed the interim order restraining the security police. Notice of appeal was lodged by the Commissioner of Police and the head of the Security Police. Mr. Essop senior instituted an action to claim damages amounting to R 10.000 from the police.

EVANS, Mr. Robin.

On 3.12.76 the Cape Times reported that a school teacher, Mr. Robin Evans, was found not guilty of public violence. The case was heard in the Cape Town regional magistrate's court on 2nd December.

Mr. Evans described events at the Alexander Sinton High School on the morning of 3rd September, 1976. Pupils milled around the school grounds and demonstrated. Police arrived and arrested a youth, and later fired teargas and shotguns, and entered the building.

"A boy who did not get to safety quick enough was shot, and I asked a photographerwhy he had not taken pictures of the boy being shot", Mr. Evans said.

He was helping children down stairs who were frothing at the mouth after police fired teargas in classrooms. Mr. Evans heard someone shout 'vat hom' (get him) and walked rapidly to the staff room.

Police followed him "and then grabbed me and beat me with batons in front of the children. Outside the building I broke free and was half dazed."

Mr. Evans described falling to the ground and being "booted" in the face as he lay on the ground. "I remember seeing a boot in my face and blood on my chest." He said police stopped beating him when a senior police officer told them that a photographer was present.

"When we got to the van one policeman said in Afrikaans 'Throw him with the dogs, the White trash'. I could see they were mistaken and told them I was Coloured"

Mr. Evans said the police were taken aback.

"While sitting in the van they poked batons at me through the mesh. My face was bleeding profusely at this stage. At the police station I was tripped and made to crawl to the charge office. I was arrested with another teacher and we were made to stand with our heads bowed in positions of humility", Mr. Evans said

FRANCIS, Mr. Dainger.

An Indian teacher held as an "accomplice witness", appearing at a Terrorism trial in Pietermaritzburg, alleged he had been tortured and "subjected to a reign of terror". He said he had been tortured "for fun" (Daily Dispatch 27.2.69)

GOLDING, Mr. Phillip.

A State witness in an A N C trial, Pretoria, said he had been assaulted at Compol Buildings, Pretoria, and kept standing for two days.

Among those who had questioned him were Major Swenepoel, Lieut Ferreira, Sgt Truter and two other officers. He told the court he had been kicked, punched and beaten after his arrest.

In nearly 20 British consular visits Mr. Golding made no complaint about ill-treatment or his health. Later, after giving evidence, he was allowed to return to England, where he stated that he had not told the Consul about any ill-treatment, because police officers were also present. (Cape Times 9.12.69, Sunday Times 14.12.69 and 11.1.70)

GOSSCHALK, Mr. B.L.

On 3rd March, 1966 the wife of Mr. Gosschalk, a Cape Town architect who was held under the 180-day clause on 27.1.66, submitted an urgent application to a judge of the Supreme Court. She stated that she had been permitted a visit to her husband in detention, and submitted that he had been continuously interrogated by teams of men from his arrest on 27th January until some time on the 31st. No sanitary conveniences had been provided in his cell and he had not been allowed to wash. When she saw him, he broke down. He was dirty, unshaven, had soiled clothing, and was exhausted and bewildered.

On 2nd February the judge issued an order which operated as a temporary interdict to restrain the Security Police. On the return date the Police submitted replying affidavits, denying the police had exceeded their rights in regard to powers of interroga-

tion. (For the judgment refer to Appendix containing Judges' comments.)
(Race Relations Survey, 1966 P.85)

GWENTSHE, Mr. Mziwala.

The "Sunday Times" of 28 3 76 reported that a former detainee held under the Terrorism Act, Mr. M.Gwentshe, had brought an application for damages of R 3 500 against the Minister of Police, as a result of alleged assaults by the Security Police during his interrogation.

In particulars filed in the Pretoria Supreme Court, it was claimed that Mr. Gwentshe was kicked and hit with karate blows all over his body during interrogation. It was also claimed that he was forced to hold an "imaginary chair" with his outstretched hands for "Long and varying periods"

Mr. Gwentshe was arrested by Security Police in Kingwilliamstown on 13 10 74. He was transported in leg irons to Pretoria Central prison, and held under Section 6 of the Terrorism Act. His interrogation took place between 21st October 1974 and February 1975.

As a result of the alleged assaults, he suffered pain, shock and indignity. He fainted several times and was still receiving medical treatment.

Mr. Gwentshe was ordered to reply to the Minister's request for further particulars and to pay the costs of the application.

HOLIDAY, Mr. Anthony.

In an unsworn statement from the dock after he was found guilty on charges under the Terrorism Act on 19 11 76 in the Supreme Court, Pretoria, Mr. Holiday, referring to his treatment in detention said it had begun in a civilised manner, but rapidly deteriorated into a nightmare.

He said that under the direction of Capt. Fourie he had been choked, rolled on the floor, crushed against a wall, struck and had his arms and wrists twisted.

He was also forced to stand with a chair above his head while his interrogators questioned him and flung shoes at his groin.

During the first 48 hours of his detention in July, 1976 he had made admissions to the police because he feared that unless he did so, they would arrest someone dear to him.

He said his interrogators had even enacted a charade behind a closed door, imitating the sounds of a person being beaten and screaming in pain. Shortly after the assaults Cap. J.van Tonder had apologised and said they were done without his knowledge.

Mr. Holiday said he should like to believe him.

Commenting on Mr. Holiday's allegations that he had been assaulted, the judge (Mr. Justice Davidson) said that as no direct evidence had been led on the matter, he could not accept or reject the allegations, but if the assault had been proved, he would have condemned them "roundly and absolutely".

Mr. Holiday was sentenced to six years imprisonment.

KEMP, Miss Stephenie.

Detained on 4 7 64 under the 90-day clause, in connection with the African Resistance Movement, Miss Kemp (eventually charged with sabotage) claimed damages totalling R. 2.000 from the Minister of Justice and the Security Police. Miss Kemp alleged that she had been interrogated continuously for 15 hours and during this period had been assaulted and knocked semiconscious. (R.R.Survey 1964, p.71)

At the Inquest on Imam Haron, Counsel for the widow questioned Sgt.van Wyk of the Security Police as follows: -

Counsel: "There was another case in which you were involved Stephanie Kemp's case. There was an allegation that you assaulted her."

Sgt. van Wyk: "Yes, there was an allegation."

Counsel: "In that case the Minister of Justice paid her One thousand Rand"

Sgt. van Wyk: "Yes, but I was not charged."

"Personality" July 16, 1970, P 105)

The R 1.000 paid to Miss Kemp by the State was handed over "without admitting liability and to put an end to litigation" (Sunday Timers 31 7 66)

BROOKS, Mr. Alan.

Detained at the same period as Miss Kemp, also under the 90-day clause, and also charged with sabotage, Mr Brooks claimed damages totalling R 4.000 from the Minister of Justice and the Security Police. Mr. Brooks alleged he had been punched and kicked, his ankles twisted, and one of them was broken.

(R D M 20 B.64 and 10.10.64)

Counsel at the Iman Haron Inquest asked Sgt. van Wyk whether it was not a coincidence that Mr. Alan Brooks was alleged to have broken his ankle on the same flight of stairs down which the Iman was said to have fallen.

The Minister of Justice paid an amount to Mr Brooks the extent of which was not publicly announced. (R R Survey, 1966)

(The charge of sabotage was altered to one of membership of an unlawful organisation, both were found guilty and sentenced to an affective term of imprisonment of two years.)

MAHARAJ, Mr. Seth.

Convicted of sabotage, Mr Maharaj complained to the trial judge that he had been beaten and kicked by members of the Security Police. This complaint was forwarded to the Attorney-General for investigation. (R R Survey 1964, P 71)

LEWIN, Mr. Hugh.

Mr. Lewin, who was found guilty on some charges of sabotage in connection with the African Resistance Movement in 1964, alleged that he had been assaulted while in detention. A police officer was charged with having assaulted Mr Lewin, but was found not guilty. (R R. Survey 1964, P 71)

MOLOKENG, Mr. Joseph and MOLETSANE, Mr. Andrew.

In the trial of Molokeng and 6 others in the Supreme Court Pretoria on a charge under the Terrorism Act in 1976, Mr Andrew Moletsane claimed that while in detention he had been **INTERROGATED AT LENGTH AND ASSAULTED**

Another accused, Mr. Joseph Molokeng, testified that Security Police had interrogated him for 30 hours without a break when he was arrested. These two men were acquitted.

For the comments of the Judge, Mr Justice I. Steyn, see separate Appendix.

(Race Relations Survey 1976 P. 129)

KGOKONG, Mr. Jairus.

On 22nd March, 1976 when the trial of Molokeng and 6 others resumed, Mr Jairus Kgokong, a former SASO executive member, was called to give evidence for the State. He alleged that he had been forced by the Security Police to make statements directly contrary to what he knew to be true.

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Mr. Kgokong testified that Capt. Cronwright of the Security Branch had referred him to two paragraphs in the handwriting of Captain Cronwright. The paragraphs referred to "Military training for the purpose of revolution in the Republic, to overthrow the regime by violent revolution" and to the study of "Marxism for the purpose of bringing about social, economic and political changes in the Republic of South Africa."

Kgokong alleged that he was told to put the two paragraphs into his own words, so that it could be said that the Special Branch had put words into his mouth.

He alleged further that Capt. Cronwright and Det. Sgt. J. Smith went through his statement to see if it was in line with what they were saying. When it was not "THEY THREATENED ME WITH VIOLENCE. I WAS TOLD I WOULD BE KILLED IN AN INHUMAN WAY IF I DID NOT SAY WHAT THEY WANTED."

Race Relations Survey 1976, p.129
Race Relations News, September 1976.

MKHWANAZI, Mr. Arthur and MOLALA, Mr. Patrick.

On 24th November, 1976 Messrs. Mkhwanazi and Molala, both clerks at the Kalafong Hospital, were charged with sabotage, alternatively with conspiring to commit arson. Their trial was in the Circuit court at Springs, and the State alleged they made two petrol bombs at Atteridgeville on 24th October.

Both men pleaded not guilty and told the court that they incriminated themselves after they were GIVEN ELECTRIC SHOCKS BY MEMBERS OF THE SECURITY POLICE.

Mr. Molala said he was KICKED after being given electric shocks.

(R.D.M. 25.11.76)

MOTHOPENG, Zepheniah.

On 10th June, 1964, Mr. Mothopeng, then serving a prison sentence, applied in forma pauperis in the Supreme Court, Pretoria, for leave to sue the Minister for R 5.000 damages for wrongful arrest and detention.

He alleged that while he was under 90-day detention in the Pretoria Central Police Barracks, THE POLICE HAD PUNCHED AND KICKED HIM, TRUSSED HIM IN A SITTING POSITION, NEARLY SUFFOCATED HIM BY PLACING A CANVAS BAG OVER HIS HEAD AND HAD THEN APPLIED ELECTRIC SHOCKS.

The police filed an affidavit denying the allegations, but Mr. Mothopeng was granted leave to sue. (R.R. Survey 1964, P.69)

Mr. Mothopeng served a three-year sentence for furthering the aims of the Pan-African Congress. He was released in May, 1967 and immediately served with a two-year banning order, which confined him to the magisterial district of Harrismith.

He was escorted from faol to Witziesshoek, where he was given an unfurnished shed in which to live.

The only work offered him was as a labourer at 65 cents a day; yet before his arrest, he had been a highschool-teacher, and was completing studies for a law degree.

His wife and children, who live in Johannesburg, were not officially notified of his removal. Permission was granted for them to visit him or stay with him. After six months at Witziesshoek, however, Mr. Mothopeng was allowed to return to his home in Johannesburg, but the other clauses of his banning order remained in force.

(R.R.Survey 1967, P.40)

PHETO, Mr. Molefe.

Detained in March, 1975, Mr. Pheto was charged under the Terrorism Act on 20th November, 1975. (Nearly 8 months in detention).

He was acquitted after a trial lasting one day – on 10th December.

Mr. Pheto instituted **LEGAL ACTION AGAINST THE POLICE FOR ALLEGEDLY ASSAULTING HIM DURING HIS DETENTION OF 285 DAYS.**

TSHABALALA, Mr. Petrus.

Detained in November, 1975, Mr Tshabalala was acquitted in the Rand Supreme Court of a Terrorism Act charge on 11th March 1976

After his acquittal he instructed his attorney to **SUE THE MINISTER OF JUSTICE FOR DAMAGES ARISING FROM ALLEGED ASSAULTS BY THE SECURITY POLICE** while he was in detention.

Captain Cronwright admitted in court during the trial that he had learnt that Mr Tshabalala had been in the Klerksdorp Hospital for 12 days during his detention

A State witness, Mr. Lungisani Madya, claimed too during his evidence that he had been **ASSAULTED BY THE POLICE**

MCGLUWA, Mr. Patrick.

Called as a State witness in the trial of Mr Trevor Bloem in the Rand Supreme Court in February, 1976, Mr. Patrick Mngluwa stated that he had been in detention since February, 1975 (one year).

He (and another State witness, Mr R.A. Burgers) refused to give evidence at the start of the trial.

Mr Mngluwa alleged he had been **SUBJECTED TO BRUTALITY WHILE IN DETENTION** and denied the accuracy of his statement to the police "I was told what to say, which was contrary to my knowledge. The contents of my statement are the thoughts of the security police."

He and Mr. Burgers were committed to 10 days imprisonment by Mr Justice Theron for refusing to give evidence

They re-appeared in court on 20th February, and were sentenced to a further twelve months' imprisonment, when they again refused to give evidence against Mr Bloem. On 27th February Mr Bloem was acquitted on the Terrorism Act charge, but found guilty on three other charges, and fined and given a suspended prison sentence

(All above cases from Race Relations Survey, 1976, Pp 133/4)

RUDIN, Mr. Geoffrey.

Detained under the 180-day clause, in connection with the ARENSTEIN case, Mr Rudin stated: "I was interrogated non-stop from Saturday night until Wednesday. I was only allowed to sit down after a time, but I had no sleep. I was not able to think clearly at all times. I was told that if I made a statement I would not be charged. After four or five days I made a statement. I realised I was betraying my friends."

(Sunday Times 11 9 66)

SCHERMBRUCKER, Ian F.

During August, 1964 Mrs I F Schermbucker applied to the courts for an order restraining the police from maltreating her husband, who was under 90-day detention.

It was alleged that when taken to Police Headquarters in Johannesburg (The Grays) for interrogation, he had been **MADE TO STAND ON ONE SPOT FOR 28 HOURS CONTINUOUSLY** in the presence of 2 to 6 policemen. He fell twice; **COLD WATER WAS THROWN OVER HIM AND HE WAS PULLED TO HIS FEET.** Threats were made that this treatment would be continued unless he replied to questions. **HE WAS TEMPTED TO COMMIT SUICIDE BY JUMPING THROUGH THE WINDOW;** but decided instead to make a short statement.

(R.D.M 8.8.64 R.R.Survey 1964, P.69).

LEVY, Norman – TREWHELA, Paul – GAZIDES, Dr. Costa.

These three men, who had been under 90-day detention, appeared in a magistrate's court and later in the Regional court, and asked the magistrates concerned to accept affidavits they had made which related to the manner in which certain statements had been got from them. On each occasion the MAGISTRATE REFUSED, STATING THAT HE HAD NO JURISDICTION TO HEAR SUCH AFFIDAVITS.

Mr Levy in his affidavit alleged having been made to STAND FOR 42 CONSECUTIVE HOURS IN A SMALL SQUARE DRAWN ON THE FLOOR, WHILE TEAMS OF DETECTIVES IN TURN INTERROGATED HIM. He had to eat food standing up. When he was allowed to go to the cloakroom, he could only drag himself there in a crouched position. Eventually he agreed to make a statement, and was returned to his cell. A few hours later he was pulled to his feet and told his statement had been inadequate. After a further 15 minutes of interrogation he could no longer stand. Some days later when the treatment was repeated, he agreed to make a statement.

The others made similar affidavits.

MR. TREWHELA said on one occasion he had been interrogated continuously for 69 hours, being allowed to sit for only about 12 hours of the time. After two further periods of 40 and 35 hours respectively, he gave in and made a statement.

DR. GAZIDES stated his periods of interrogation lasted 43 hours and 40 hours, during which he was made to stand in an 18 inch square and was threatened by shifts of policemen. (S.T. 13.9.64; R.D.M. 27.8.64, 10.9.64, 21.10.64) R.R. Survey 1964 P 70

SASO/BPC TRIAL (Terrorism act detainees).

At the trial of 9 members of SASO and BPC in the Supreme Court, Pretoria, Defence advocate Mr. D. Soggott told the court on 17th September, 1975 that the detainees had been tortured during their interrogation.

Mr. Soggott said the police used a system of coercive interrogation, coupled with systematic brutality, isolation and solitary confinement. This had the effect of disintegrating personality and making the detainees dependent on their captors.

This led to the serious danger that evidence had been contaminated, if it could be shown that the interrogators attempted to secure information which they themselves believed.

It had been suggested to the accused that they should admit to themes of violence and racial hostility within SASO and BPC, and as a result untrue allegations and statements had been extracted from certain of the accused.

Mr. Justice Boshoff asked if any had made statements that could be used against them. Mr. Soggott replied that the contents of the statements was privileged, and they were inadmissible as evidence "because they were extracted by torture".

"Don't make wild allegations" Mr. Justice Boshoff replied. Argument was postponed to 18th September to enable Mr. Soggott to consult with the nine accused about the use of the statements.

On 18th September Mr. Soggott told the court that six of the accused were FORCED TO "MAINTAIN A PAINFUL CROUCHING POSITION" DURING INTERROGATION, WITH THEIR BACKS AGAINST A WALL IN A SITTING POSITION, BUT WITHOUT A CHAIR FOR SUPPORT. AT THE SAME TIME THEY HAD TO STRETCH OUT THEIR ARMS.

"After a period, they could no longer bear the cramps and the pain, and slipped down the floor. They were treated brutally by their interrogators", Mr. Soggott said. They were kicked, slapped and punched. Mr. Seths Cooper and Dr. Aubrey Mokoape were refused food and drink, and were not allowed to go to the toilet during interrogation. Many of the accused were forced to stand for long periods

of the day and into the night during question. Dr. Mokoape had also been throttled by his interrogators, he added. He said the assaults on the accused were generally associated with the fact that they had not said what the police wanted them to say.

Mr. Soggott also said that State witnesses had been subjected to this treatment during their detention. I had produced a relationship of dependence on their captors. "It is not surprising that Harry Singh and other State witnesses went out of their way to deny such treatment. To a certain extent their very denials support our contention."

Indications of systematic interrogation of all detainees, said Mr. Soggott, were that they had all been transferred to Pretoria Central prison in October, 1974, and had all been interrogated, mainly by a nucleus of 14 Security Police officers. All had been subjected to a similar prison routine and diet, and all had been interrogated in a similar way. The defence contended that a system of interrogation was a source of contamination of evidence heard by the court.

In reply Mr. K. Attwell, for the State, said the basis of the defence argument was an attack on the Terrorism Act. He quoted the case of a Natal University professor, who was found guilty of contempt of court after launching an attack on the Act while in court.

"The defence must not only prove that detainees were subjected to pressure, but that false statements were made as a result of this treatment" he said.

On 23rd September Mr. Justice Boshoff handed down his judgment. He found it was clear from the evidence that there was no physical violence in the police interrogation of detained State witnesses. He found that defence questioning concerning this treatment was not relevant to the issues of the case. He therefore ruled that defence advocates questioning Major Sarel Strydom, a Pietersburg Security policeman, on alleged assaults of one of the accused, Mr. P. Nefolovodwe, must accept the policeman's answers as conclusive, and could put contradictory evidence to him.

The judge found that allegations of assault on detainees had no bearing on the facts in issue and were not legally relevant.

"BAND WAGON" No. 7 Dec. 75, pp. 11, 12.

SASO TRIALISTS – (detained and tried under Terrorism Act).

On 22.10.74 defence lawyer, Mr. S. Chetty, was permitted to see Accused Mr. Saths Cooper. During the interview Mr. Chetty gathered that there were "many detainees who were being brutally assaulted by members of the Special Branch."

Consequently Mr. Chetty made an affidavit, supported by five affidavits from next of kin of some detainees and sought an interdict restraining the security police from assaulting, interrogating in unlawful manner, employing undue or unlawful pressure, or subjecting detainees to any form of unlawful duress.

The Minister of Police and the Commissioner of Police submitted 142 pages of affidavits from 29 persons, mainly employees of the State working within the prison where the detainees were being held, denying the allegations.

No evidence could be taken from the detainees themselves in support of their case. The Terrorism Act specifically states that no court of law may pronounce upon the validity of any detention or interrogation in terms of the act.

Giving judgment, Mr. Justice Trengove stated: "The position at present is that there are very serious doubts on allegations of ill-treatment of the detainees."

(Black Review 74/75 pp. 85, 86)

SCHLAPOBERSKY, John (Wits. student, detained in lecture room and taken into custody on 13.6.69 by Security Police) This affidavit formed part of the application at the Terrorism Trial in Pietermaritzburg Supreme Court on the 7th February, 1972, concerning the admissibility of evidence on Security Police methods of interrogation. (The application failed)

Mr. Schlapobersky, in his affidavit, says one set of security policemen treated him like a felon from the start, beginning the interrogation with snarls and sneers and barely hidden threats of violence of a more physical kind. He was then taken to Major Swanepoel, who sent him into a little room.

"In this room, Swanepoel and a crowd of other policemen interrogated me. For about half an hour they shouted, threatened and taunted me on every conceivable level, from sordid jokes about my personal life and Jewish nose to frightening threats about how much they would enjoy working me over.

As the questions and innuendos became more sordid and sinister, I became more recalcitrant and angry. Swanepoel said I was on my 'high horse'. He said 'Stay that way. I like them better when they're rebellious. It's more fun breaking them'. They manhandled me, pulled my hair and my beard and threw me against the wall. One of them produced a brick and held it over my feet. I thought he was going to drop it on my toes, but he put it softly on the ground beside me and told me to stand on it. I would remain there until I talked, they said. For the whole week-end if necessary."

Although he was not kept on the brick constantly, and was even allowed to sit at times, his interrogators would not permit him to sleep.

"Swanepoel and his partner would question me from 8 p.m. until midnight.

Another pair would replace them and question me from midnight until 4 a.m., and a third pair from 4 a.m. to 8 a.m.

Swanepoel and his partner then returned and the whole 12 hour process was repeated."

9R D M 8th, 9th Febr. 1972)

SELANTO, Mr. Victor.

Mr. Selanto was called as a State witness in the Terrorism Act trial of Mr. Eric Molobi in late 1975. Mr. Selanto had been in detention. When he testified, the State objected that his evidence conflicted with a sworn statement made while in detention.

Mr. Selanto alleged that he had been assaulted while in detention and that he had received medical treatment at Randfontein hospital. He said his statement had been obtained under duress. His evidence was not proceeded with and he was taken back into detention.

(Race Relations Survey 1976 p. 133)

In the Johannesburg Magistrate's Court, before Mr. J.L. Marais, on 24th June 1976 Mr. Selanto, who had been declared a "hostile witness" in the Molobi trial, was charged with perjury.

Mr. Selanto stated that on the day of his detention on 15th March, 1975 Security Police at John Vorster Square called him "Frelimo" and slapped and punched him till he admitted that he "was Frelimo".

While he made a statement, he alleged, his arm had been twisted and he was hit. Two policemen took him to a toilet, where he was told to wash his face and his hands. While doing this, they pushed his face into the water. He felt he was about to lose consciousness and screamed he would "speak the truth".

He was told that if he failed to make a satisfactory statement, he would be kept in solitary confinement. He was kept in solitary confinement for 9 months.

He got dizzy spells and vomited blood. He was taken to the Randfontein Police Station, where his hearing deteriorated further.

Eventually, he took an overdose of sleeping tablets. Selante stated that when he had given evidence at the Supreme Court trial of Eric Molobi, he spoke the truth, but "as a result of the long solitary confinement, I was not in a good state of mind."

On 9th July he was acquitted of perjury, after two Security policemen (Captain A.M. Heystek and Lieut. C. Visser) gave conflicting evidence on their interrogation of him. The Magistrate said: "If two policemen disagree on such an important matter, and taking into account how the interrogation took place, according to the accused, then I find Mr. Selante not guilty." (BANDWAGON no. 9, Sep. 1976)

SELLO, Mr. Frans.

On 6th December, 1976 in the Terrorism Act trial in the Supreme Court, Pretoria, of Mr. D.P. Tathe and Miss E. Maleka, a State witness, Mr. Frans Sello volunteered evidence that he was not assaulted by the Security Police to force a statement from him. Mr. Roy Alloway, S.C., cross-examining Mr. Sello said: "I am surprised to hear you say you were not assaulted because I have asked you no questions about that."

Mr. Sello replied "It sometimes happens that when you make a statement the person taking it down gets tired and starts assaulting you."

He added that this had happened to him on a previous occasion when he laid a charge against someone.

Detained under the Terrorism Act, he had been in custody for a long time, he said. ("Star" 6.12.76)

WEINBERG, Mrs. Violet and GAMA, Miss Chloë.

These two women, held under the 180-day detention clause in November and December 1965, were called as State witnesses in the trial in the Supreme Court, Pretoria, of Messrs. Isaac Heymann and Michael Dingaka in April 1966 on charges relating to the Communist Party.

Both women refused to give evidence. Counsel for the Defense said they would allege, when argument was heard, that the statements they had made to the police and which had led to their being called as witnesses, had been extracted against their will after prolonged, uninterrupted periods of interrogation.

Subsequently Mrs. Weinberg told a judge of the Supreme Court that she had been kept awake for three days, being made to stand most of the time, while being interrogated by teams of detectives working in relays.

Threats had been made against people with whom she had been in contact, including members of her family.

Eventually she "cracked" and made a statement to the police. This was the statement she refused to substantiate when called as a State witness in the Heymann case.

(Race Relations Survey, 1966 pp. 80,84)

SMITH, Miss Margaret.

In the "Sunday Times" of 10.1.65, Miss Smith gave an account of her experiences in detention.

She had been in solitary confinement for 31 days in a black cell four paces long and four paces wide, she said. Inter alia, towards the end of the period, her memory, concentration and sense of proportion were affected, and she had difficulty in recognizing fact from fantasy."

(R.R. Survey, 1965 P.50)

KHADALIE, Mr. Kwezi.

Mr. Kwezi Khadalie (22), who had emigrated to West Germany, was confirmed as a Terrorism Act detainee at John Vorster Square, and West German consular officials who visited him stated that he was found to have an eye injury.

The Chairman of Amnesty International, the Rev. Paul Oestreicher, told the Rand Daily Mail in a telephone conversation from London in mid-December, 1976 that Khadalie's parents had been told by Embassy officials in West Germany that their son's injury had been caused after he slipped in the shower.

But the West German Consul-General in Johannesburg, Dr. G. Sperl, said that according to the report on the visit by one of his officers to Mr. Khadalie on 30th November, when asked about his injury, Mr. Khadalie at first refused to answer, but then said: "THERE ARE TOO MANY REASONS"

Dr. Sperl said Mr. Khadalie had a blue eye.

On 9th December, the head of the Security Police, Major General Mike Geldenhuys, told the Rand Daily Mail: "He has bags under the eyes, but he hasn't a black eye."

(R.D.M. 10.12.76).

B. Judges' comments**"JUDGEMENT AT NUREMBERG"**

"Judgment at Nuremburg" is a very thoughtful and thoughtprovoking film . . . Is it a judge's job simply to enforce the law, whatever it is, or does his conscience oblige him to call a halt at a certain point?

(Mr. S. Uys, "Sunday Times" 19.3.72)

AN APPEAL JUDGE ON CONDITIONS OF DETENTION (90-day clause).

In October 1963 a lawyer who had general power of attorney for Mr. A.L. Sachs, a 90-day detainee, applied for a court order, declaring that the police were not entitled to deprive Mr. Sachs of any of his rights and liberties except to detain him for questioning and to prevent him from having access to other people. In other respects he should be allowed the rights of awaiting-trial prisoners, it was claimed, such as adequate reading and writing materials.

The judge ruled that the section of the Act governing Mr. Sachs' detention did not, either expressly or by implication, deprive him of the rights to have a reasonable supply of books and writing material and to be given reasonable periods of exercise daily. An appeal against this judgment was immediately noted by the State.

(R.R. Survey, 1963, P.50)

At the Appellate Division the State won its case. A police captain, testifying for the State, contended that a person detained under Section 17 (the 90-day clause) was in fact a person undergoing imprisonment AND HAD NO RIGHTS, and that facilities to be given to him were in the discretion of his detainer. The only limitation of this discretion was that AT THE END OF THE PERIOD OF DETENTION THE DETAINEE SHOULD BE IN GOOD MENTAL AND PHYSICAL HEALTH.

(R.D.M. 25.3.64)

One of the Appeal Judges stated that PARLIAMENT COULD CERTAINLY NEVER HAVE INTENDED THAT A DETAINEE SHOULD BE SUBJECTED TO ANY FORM OF ASSAULT TO INDUCE HIM TO SPEAK, or that his health or resistance should be impaired by the conditions under which he was detained. THE INTERROGATION

AUTHORIZED BY SECTION 17 COULD NOT BE CONSTRUED AS IN ANY WAY SANCTIONING THIRD DEGREE METHODS.

The Judge however found that taking into account the purpose of the 90-day clause in combating subversion, it was not the intention of Parliament "that detainees should as of right be permitted to relieve the tedium of their detention with reading matter or writings materials."

(The Star 25.3.64, R.D.M. 15.8.64)

MKENCELE v. MINISTER OF JUSTICE.

(Summary of extracts from the court record, E Cape Division, Supreme Court, Grahamstown. File: 606/65 and 1.645/65)

Pp. 1 - 10 of the Judgement:

Mr. Mkencele, who was 22 years old, and lived with his mother and stepfather in New Brighton, Port Elizabeth, was held on suspicion of having committed a snatch and run theft of a handbag.

It appears from the record and the judge's summing up of events (Mr. Justice Addleson) that, although this was an ordinary criminal charge that was pending, Mr. Mkencele's detention and the investigation of the charge was being handled by the Security Police, primarily to protect the identity of their informer, Hector Qunta. Mkencele brought a civil action for damages for unlawful or false arrest and imprisonment (at Fort Glamorgan) on three occasions between 14th June 1965 and 29th July 1965. The assault was alleged to have taken place on the 6th floor of Sanlam Buildings, Port Elizabeth (Security Police offices). Mkencele was also suing for malicious prosecution.

When he first appeared in the Magistrate's court, the case against him was withdrawn. He was then immediately re-arrested. When he re-appeared on 29th June, 1965, on the insistence of the police, the case was again withdrawn. Again he was charged, and the case withdrawn on 22nd July. The same charge was again brought on 28th July, and he was finally found NOT GUILTY on 31st August.

In his action for damages, Mkencele claimed he was assaulted by two "Special Branch" police, Sgt. Ngqaleni and Sgt. Gazo. A Lieut. (promoted during this period of time) of the Special Branch was also involved - Lieut. du Preez.

P.18:

The lawyer acting for the Police tried to argue with the doctor who examined Mkencele that the 18 WEALS ON HIS BODY (WHICH WERE CONSISTENT WITH ASSAULT WITH A SJAMBOK) were caused when the plaintiff "fell down a couple of steps". The doctor thought this was most unlikely, and that his black eye could not be explained either.

P.19.:

A Security Police detective was present through the doctor's examination of the detainee, and when he was asked by the doctor how he had got these injuries, the Sgt. present immediately interjected: "Hy het van 'n paar trappies afgeval". (He fell down a couple of steps).

P.11:

Details of assaults: When the detainee refused to admit to robbery, he was hit with fists on the front and back of the body, was kicked all over the body, ordered into isolation, and not allowed food, sjambokked to make him run to an office in the Sanlam building.

P.38:

The Judge found the evidence given by other prisoners in the same cell as Mkencele totally unreliable. The Security Branch informer, Hector Qunta, was regarded by the judge as "a most unreliable witness, who will not hesitate to perjure himself, or to fabricate evidence if it is to his advantage or to the advantage of anyone whom he wished to benefit."

Lieut. du Preez took over the robbery case to protect Qunta's identity, so he would not have to appear in court. The judge said that du Preez had made extravagant claims to keep the accused under Security Branch control. These extravagant claims were entered into the "Investigation Diary". Informer Qunta had alleged that Mkencele's injuries were received in a fight.

The judge referred to the evidence of police witnesses as unreliable and called them "confidence tricksters, thoroughly dishonest, unreliable, untruthful etc". On P.14: "The whole incident seemed to me to reek of fabrication"

P.42.

"If indeed this story is a complete fabrication, then its sinister implications are obvious and must weigh heavily against the defendant (the Security Police)."

Pps. 43 and 44:

The judge notes that "all the Security Police here are a close knit team, with a strong sense of loyalty to each other and the team" "It is not at all improbable that the members of this team would attempt to cover it up" Therefore, the fact that all the police corroborated each other did not add any more weight to the evidence, said the judge

P.47.

Judge notes that the Security Police "apparent imperturbability in the witness box is not an especially strong point in their favour, since all of them are experienced policemen, who are not unused to giving evidence"

P.50:

The judge commented that the Prosecutor, Mr. Klackers, was at that time virtually a member of the Security Police team. He even spent most evenings in the Special Branch offices "in exceptionally close collaboration with them." The judge said that Klackers was either reconstructing the evidence or deliberately concealing the fact of an assault.

P.52:

Of Lieut. du Preez, the judge said: "His repeated insistence that, because of the important services which he and his team had rendered to the safety of the State, no action would be taken by the authorities if it were held by this court, or even by the Appellate Division, that such an assault had been committed by him or his team..... I find impossible to believe that no action would have been taken in such an event. These statements by du Preez do, however, seem to me to throw a significant light on his state of mind, and at the very least, increase the probability that he could have committed an assault if he felt that he could do so with impunity."

P.53.:

On du Preez's evidence: "Didn't make a favourable impression". "His improbable version of the interview". du Preez had greatly exaggerated his entries in the Investigation Diary.

P.54.:

Security Policeman du Preez tried to mislead the C.I.D.

P.56.:

Judge on the difficulty of proving assault when one is held in solitary confinement
 "All the other witnesses who deny the assaults, and who may be in a position to know whether or not it took place, have strong motives to suppress the truth. The fact that they are Police officers of whom one would not normally expect the suppression of truth, is not of such great weight as it would normally be in the special circumstances of this case." (that is, all the Police detectives had worked as a Security Branch team for a long time together and were close in loyalty.)

P.79.:

The Judge concluded that the repeated re-arrests of Mr Mkencele by members of the Security Branch was "inconsiderate, even callous of the plaintiff's feelings, dignity and rights."

N.B.: One of the most important aspects of this judgement related to du Preez's statement on oath, that if he had wanted to keep the plaintiff incommunicado, he could have detained him, although without any legal justification, under the 90-day clause. (P 56)

Conclusion:

Mr. Mkencele's case went on from 14th June, 1965 through 1966 and 1967. Judgment in the Supreme Court was postponed for 8 months until December 1967. Mr Mkencele had claimed R 1 500 and was awarded R. 1 000 in 1968.

Mr. JUSTICE DE WET, JUDGE PRESIDENT.

At the Rivonia trial Mr Justice de Wet was reported to have said, "All the material witnesses were detained for questioning under the provisions of Section 17 or Act 37 of 1963 (90-day clause), and were kept in SOLITARY CONFINEMENT UNTIL THEY WERE PREPARED TO MAKE A STATEMENT. The possibility must be borne in mind that suggestions made by the questioners were accepted, and that evidence was concocted to satisfy the questioners." (STAR 11 8 64)

THE APPEAL COURT ruled that refusal by a court of the Rand Criminal Sessions in 1963 to permit police officers to be questioned on allegations of ill treatment of detainees (5 African convicted of sabotage) constituted an irregularity. Two of the Africans had their convictions and sentences set aside, their counsel having submitted that the State had failed to prove that their confessions had been freely and voluntarily made. (STAR 24 9 64)

Similarly, two Africans, sentenced in Johannesburg in August 1963 to 17 years and 15 years imprisonment respectively for conspiring to kill Whites and commit acts of sabotage, were freed on appeal for the reason that the junior court had not allowed evidence to be led about alleged assaults by the police. (R. D. M. 6 10 64)

Mr. JUSTICE DIDCOTT.

In the matter of an urgent application to the Durban Supreme Court on 17th April, 1976, by Mrs. Nkusana, wife of Mr HAROLD NXASANA, detained since December, 1975 under the Terrorism Act, Mr Justice Didcott commented in his judgement that Section 6 of the Terrorism Act was draconian in its general effect.

He claimed that "... in providing for the detention for indefinite periods of those who have not been convicted of crimes, for their isolation from legal advice and from their families and for their interrogation at the risk of self-incrimination, the legislature has pursued its objects by the enactment of measures which are undoubtedly foreign to the ordinary principles of our law." (daily News 14 5 76)

MR. JUSTICE JAMES, Judge President of Natal.

In the Supreme Court, Pietermaritzburg at the terrorism trial of APDUSA members, Mr Justice James said the accuseds' allegations about ill treatment in the Pondoland police camp could not be believed and "the court accepts that the State witnesses who have denied the allegations of ill treatment made by the four Pondo accused, are speaking the truth in that regard"

The Police against whom serious allegations had been made had appeared in court and denied the allegations, and were accepted as truthful and honourable men

"In addition to these witnesses there was also the evidence of Colonel Swanepoel, who was in charge of the camp. He took full responsibility for the conduct of the camp and asserted that if any act of brutality had occurred he would have known about them. He denied any such acts" said the Judge

ARGUS 5 4 72

However the judge pointed out that the men from Pondoland had been detained in terms of Proclamation R 400 of 1960 (Transkei Emergency Regulations), and said it was unfortunate that this proclamation "makes no provision for detainees to be visited by a magistrate from time to time, because if the complaints of the accused regarding ill-treatment were genuine this would have given them an opportunity to put their complaints on record. Furthermore, if they did not take the opportunity thus afforded, it might be a pointer to a lack of genuineness in their complaints. In this regard **DETAINEES UNDER THE PROCLAMATION ARE IN A WORSE POSITION THAN PERSONS DETAINED UNDER THE TERRORISM ACT**"

R R Servey 1972, P 97

MR. JUSTICE N. JAMES, Pietermaritzburg.

In a case heard in 1972, Mr Justice James was reported to have commented:

"It is not for the court to comment upon the powers conferred upon the police by these laws. Clearly Parliament has given them to the police because it considers that they are necessary to protect the security of the State."

Cape Times 5 4 72

MR. JUSTICE JAMES, JUDGE PRESIDENT OF NATAL.

Acquitting four security branch policemen of the culpable homicide of detainee Mr. JOSEPH MDLULI on 28th October, 1976 the Judge said in view of the post mortem findings and the fact that a man had died in police custody, it was "manifestly important" in the interests of justice, the police force and the public that the circumstances of death be investigated as thoroughly as possible

If it was established that the death was caused by the unlawful acts of police officers, irrespective of rank, these officers should be punished.

"I need hardly emphasise that the police have very wide powers of arrest and detention and this imposes a heavy responsibility to see that those under their control are not subjected to unlawful assaults or improper conduct."

There was a conflict between evidence given by the police officers and the doctors. It was clear from doctor's evidence that Mdluli died almost immediately after receiving his neck injuries. If he had denied of these injuries in the morning after a scuffle with the 4 accused, all the policemen in the building would have had to enter an "elaborate" conspiracy to conceal his death till that evening

"I consider the probabilities overwhelming that the accused did not give Mdluli the fatal injuries to his neck that morning. But as this was the only occasion on which it is alleged they assaulted Mdluli, they had to be acquitted on the charge which they faced

It seemed to the court, however, that there were certain improbabilities in police accounts. The accounts did not satisfactorily explain all Mr. Mdluli's injuries, particularly in regard to the broken ribs and some of the neck injuries.

"I need hardly say that the problem of how Mdluli met his death is one that should be solved and it is one of great importance."

"It may well be that the matter requires further detailed investigation by the authorities and perhaps in the criminal and civil courts. I need hardly say that this is a matter of the greatest importance and should not be left in its existing highly unsatisfactory condition.

Secondly, I must make reference to the evidence that after Mdluli's body was handed over by the Mortuary to the agents of his family certain additional injuries were inflicted upon it and that photographs were then taken of the body showing not only those injuries observed by Dr. Van Straaten but of these additional injuries. The court was not told for what purpose these post-mortem injuries were inflicted or why these photographs were taken but it is difficult to conceive that all this was done for an innocent purpose. It is to be hoped that this matter will be fully investigated."

(Cape Times 29 10 76 and 24 2 77)

MR. JUSTICE MARAIS.

In the trial of Messrs. KALAKE and MOALOSI (on incitement to sabotage) in Johannesburg in 1967, Mr. Justice Marais referred to criticism of the police made by the defence during the trial, and said "No doubt some of it is justified."

A Rand Daily Mail editorial stated: "He did not specify which criticism he felt were justified, but the remark gives cause for concern, because most of the allegations made were very serious indeed.

In particular there was a claim on the part of the defence that one of the accused men had been COMPELLED BY SECURITY BRANCH INTERROGATORS TO STAND IN TWO SEPARATE SESSIONS - FOR A TOTAL OF FOUR DAYS, SOMETIMES WITH HIS ARMS RAISED ABOVE HIS HEAD AND HIS KNEES BENT, and that at the end of this he had made a statement.

The defence challenged the admissibility of the statement on the grounds that it was made under duress AND EVENTUALLY THE STATE WITHDREW IT; CONSEQUENTLY THE JUDGE WAS NOT REQUIRED TO DECIDE THE ISSUE."

(Race Relations Survey, 1967 p.58, R.D.M. 17 5 67)

MR. JUSTICE I. STEYN.

In the trial in the Supreme Court, Pretoria in 1976 of Mr. Joseph Molokeng and 6 others on charges under the Terrorism Act, Mr. Justice I. Steyn said on 21st May:

"I have found the investigational systems used in this case very suspect. I have kept this in mind throughout my judgment."

He referred to Captain A.B. Crowright and Sgt. Smut, who interrogated the witness, held in detention, and told them to write out their statements in their own handwriting. These statements were placed before Capt. Crowright, who made observations and guidelines for final statements.

"And then persons were tricked into signing them. Most witnesses did not hesitate to say in court that they were forced and tricked to make statements", said the Judge.

(Race Relations Survey, 1976 P.129)

MR. JUSTICE J.W. VAN ZYL (in the matter of detainee Mr. B. Gosschalk).

In February, 1986 Mr. Justice van Zyl granted an order restraining the security police from interrogating Mr. Gosschalk that acted as a temporary interdict.

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On 24th March the judge, referring in general to the position of detainees under Section 215 bis (of the Criminal Procedure Act of 1955 as amended - the "180-day clause") said: "The duties of the police clearly include the investigation of alleged offences. It seems to me that the performance of this duty would be partially stultified if the police were precluded by law from interrogating a person without his consent."

"The invasion of the rights of the individual necessarily involved in police interrogation must, however, be strictly limited. Obviously they are not entitled, in order to induce a detainee to speak, to subject him to any form of assault or to cause his health or resistance to be impaired by inadequate food, lack of sleep, living conditions, or the like. Nor may they resort to methods of interrogation commonly referred to as the 'third degree'. In this context I understand the term 'third degree' to refer to a severe and prolonged crossquestioning designed to overcome the powers of resistance of the person being interrogated."

"On the other hand, circumstances may well render it perfectly reasonable for the interrogation to be persisted in even though the person concerned refuses to answer questions. Thus the police might wish to exercise a moderate degree of moral persuasion. The difference between this approach and the 'third degree' method is largely one of degree and the dividing line can only be the criterion of reasonability. The difference is nevertheless a very real one."

(R D M 25 3 66)

(Race Relations Survey, 1966, pp 85,86)

SUPREME COURT, PIETERMARITZBURG 1968.

The Race Relations Survey for 1968, P 53 referred to comments by the Judge at a murder trial (reported in the "Star" on 8 2 68), when the Judge said that the conduct of the police in seeking to obtain confessions, and their conduct in the particular case before the court could not be tolerated by the court and was deserving of the most stringent censure.

It was found, on the evidence of a detective sergeant, that sometimes about five or six policemen cross-questioned an accused to trap him. Then the court was told that the statement presented as evidence had been made freely and voluntarily.

A Lieut Colonel of the police who gave evidence was found to be "a thoroughly untruthful and untrustworthy witness, on whose evidence not the slightest reliance can be placed".

COMMENTS OF ACTING CHIEF JUSTICE VILJOEN

(in the case of the Minister of Police v Maria Nomvula Skosana heard in September, 1976)

In the appeal, which concerned the death of a man who had been in ordinary police custody, the court said:

"...where detainees are concerned no policeman should allow his diligence to lag for a moment. He is the custodian of the detainees under his charge who have been deprived of their freedom of movement and whose capacity to make their own decisions and carry them out, has not only been restricted but completely neutralised."

In this case it was found that the two policemen acted "in breach of their own standing orders". It was found that it had not been proved that the negligence of the two policemen was the cause of the prisoner's death.

(From question and answer session at press conference with Minister Mr. J. Kruger on 23.2.77 - C.T. 24.2.77)

7. Accounts of deaths of ordinary ('non-political') detainees in custody

DEATHS IN POLICE CUSTODY OF "ORDINARY" DETAINEES (UNPOLITICAL).

Each year the Minister of Justice gives information in Parliament about the number of "ordinary" detainees who die in police custody.

For example, in 1974 Lethobele Mazeka (25) died falling from the 4th floor of John Vorster square after interrogation regarding allegedly stolen goods.

On 23rd February, 1977 the Minister gave information concerning the deaths of 117 people held by the police. (See "Cape Times 24.2.77). Amongst these was:

NKOMO, Mr. Joseph who was detained on 23.2.76 on a housebreaking charge and died on the same day from brain injuries. A member of the police force was convicted of assault as a result.

MALITI, Mr. Vukile B. was arrested on 15.4.76 on a theft charge, and died on the same day from injuries received in an assault. Two members of the police force were convicted of manslaughter as a result.

JACOBS, Mr. James was arrested on 2.5.76 on a charge of drunkenness and died four days later of a fractured skull. A member of the police force was convicted of assault as a result.

Some deaths have been referred to in the Press lately, namely -

In 1976 a Mr. B.J. Vilakazi was the subject of inquest proceedings in Johannesburg. He was a Soweto businessman, suspected of a R 73 000 armed robbery. He was taken by police to a river-bank to show them where two guns were allegedly hidden. A police captain testified that Mr. Vilakazi, although in leg-irons, seized him and pushed him into the river. He then appeared firing a gun from each hand. Police shot back and killed him. Evidence showed that one of the guns had previously been in the possession of the police.

Counsel for the Vilakazi family said there was a strong inference that the gun had been planted, and a prima facie case of murder existed. Even the prosecutor leading the evidence agreed that the police may have been culpable. The magistrate, however, did not see his way clear to return anything stronger than an open verdict, which while it does not exonerate the police, does not blame them either for the death.

(From "Star" editorial)

On 31.5.76 Mr. Bigboy Nngomezulu died during a car trip with policemen. He was allegedly a robbery suspect. (See separate story)

On 26.7.76 Mr. Wilfred Ngcanga died in the Settlers Hospital, Grahamstown the day after he was arrested for allegedly being drunk in a public place. The Inquest magistrate said he could make no ruling on whether the death of Mr. Ngcanga, from cerebral haemorrhage as result of fractured skull, was caused by the act or omission amounting to an offence on the part of any person. (Sunday Tribune 19.12.76)

On 7.8.76 Mr. P. Kgupe died in custody of head injuries. The Minister of Justice said (Die Burger 24.2.77) that no one had been criminally responsible for his death.

On 28.9.76 a Mr. Phenuel Mogerusi (22) died from natural causes as a result of suffocation from an epileptic fit. He had been in detention since July, allegedly on robbery charge. (R.D.M. 19.10.76)

On 5.10.76 Mr. Jacob Mashabane (22) of Dube, Soweto, a student at the University of Zululand was found in his cell "having committed suicide". It was stated that he had been charged with theft of a motorcar. The family postponed his funeral from 17th October to arrange for a private post-mortem.

The Minister of Justice was reported in Die Burger on 24.2.77 to have said that Mashabane had previously threatened suicide and had made a rope from his vest. At the inquest the magistrate had found no one could be held responsible for his death.

On 14.10.76 Mr. W.N. Tshwane of Jabavu, Soweto died. He had been in custody in the Modder B gaol after having been arrested with other students on 25th July. He was actually reported at one time to have been detained under security legislation. Lawyers said the family had been told they could not be given the body for burial because Mr. Tshwane had already been buried and "nothing more could be done about it"

(R.D.M. 19.10.76)

However, the Minister stated (die Burger 24.2.77) that Mr. Tshwane had been trapped in a stolen car in Soweto and when he fled, was shot dead by police. The result of the inquest was manslaughter, though no one was criminally responsible.

On 18.1.77 Mr. Jacob Tiale was reported by the Rand Daily Mail to have died in police custody "this year".

On 24.2.77 the Argus reported that William Sampson (37) of Athlone, Cape had been detained on charges of theft, and was found hanged in his cell early on 23rd February.

NOTE: An unknown man, aged 46, whose name was not revealed, was reported to have jumped to his death from his 14th floor flat in Braamfontein on 4th February, 1977 when police were questioning him about drugs. The death was being investigated.

MAZEKA, Mr. Lethobele.

(Died in hospital after falling from 4th floor, John Vorster Square)

A senior police officer said in Johannesburg on 17.4.74 that Mr. Mazeka may have tried to commit suicide, or he may have leapt from the window in an escape bid thinking he was only on the first floor. (report in Argus 17.4.74)

Mr. Mazeka was being interrogated at the time in connection with allegedly stolen goods in his possession. He apparently landed feet first in a garden beneath the window, breaking both legs. He died in hospital later in the day.

MNGOMEZULU, Mr. Big Boy Tembo - deceased.

Mr. Mngomezulu, 28, was arrested at Evaton on 31st May 1976 as a suspect in a R 70.000 Vereeniging Robbery, it was stated by police witnesses before Mr. T.R. Steenkamp, a Krugersdorp Magistrate.

At the inquest, it was stated that Mngomezulu was handcuffed and taken to Krugersdorp by Warrant Officer W.C. Landman and Constable C.J. Botha and Constable Sonny-boy Walazi.

On the way "Warrant Officer Landman had stopped about 18 km from Krugersdorp to inspect a car". The two police stood near the other car, while the prisoner sat beside Const. Walazi in the back of the police car. Mr. Mngomezulu jumped out of the car and tried to escape, according to the police.

The Warrant Officer chased him over what he described as rough ground. He said he stopped the fleeing man by jumping on his back. The prisoner fell face downward. The policeman said he helped the prisoner back to the car and that he looked unwell. Const. Botha administered artificial respiration, but when they reached the Leratong Hospital a doctor said Mr. Mngomezulu was dead.

Professor J.J.F. Taljaard, professor of forensic medicine at Wits University and chief State pathologist for Johannesburg, said in his post mortem report that **DEATH WAS DUE TO HEAD INJURIES**. This finding was supported by Dr J. Gluckman.

On 23rd February, 1977 prof. Taljaard said Mr. Mngomezulu had two black eyes which might have been caused by blood seeping back into them after death. He also had bruises at the back of the right eye and lacerations of the inner lips and bruises of the forehead.

Prof. Taljaard said the man could have died from injuries caused by what the police said had happened. He said he had received an affidavit from Const. Walazi in which he said the prisoner had got out of the car to urinate and then tried to escape.

Cross-examined, Prof. Taljaard said that if the man had fallen on his face, as described

by the police, the injuries to the back of his head were inexplicable unless he had been hit by a hard object or a fist.

Const. Welazi was asked by Mr. Peter Soller in court why he had told the court that the prisoner had jumped out of the car to escape, while in an affidavit he had sworn that he got out of the car to urinate. **THE CONSTABLE ADMITTED HE HAD LIED IN HIS AFFIDAVIT.**

The hearing was adjourned to January 6th.

"Die Burger" reported on 24th February, 1977 that Minister J.T Kruger at a press conference had stated that the inquest finding was that Mngomezulu died of haemorrhage of the brain with no-one criminally responsible for his death.

8. Allegations of torture of ordinary ('non-political') detainees in custody, made in sworn affidavits

- African women R450 damages and costs
- White River police;
- Bultfontein,
- Damages Mr S L Nkomo R 1 000.
- Botha, Mr. M.;
- Hassen, Mrs. Bookaya
- Homen, Mr. Jan
- Januarie, Messrs H and H
- Mkhize, Mr. Temba
- Messrs. Naidoo, T. and P Mhlangu
- Vilakazi, C., Gamedo, N and Manzini, F
- Police & Indian "Mafia" Gang

ALLEGATIONS IN CONNECTION WITH "ORDINARY" NON-POLITICAL DETAINEES / PRISONERS.

In February 1964, an African woman was awarded damages of R450 and costs in the Rand Supreme Court, when she sued the Minister of Justice on the ground that she had been assaulted by police at Hospital Hill police station, Johannesburg. After she had complained of this when appearing before a magistrate, she was examined by a district surgeon, who found that she had facial injuries and "tram track" bruises on her buttocks and one thigh. (STAR 21 2 64)

In White River (E Transvaal) 2 White and 2 African policemen were found guilty of assaulting 2 Africans by **USING ELECTRIC SHOCK MACHINES**. The Whites were each sentenced to R50 or 50 days and the Africans to R10 or 30 days. (S Chronicle 12 4 64)

The Station Commander and 4 White members of his staff at the Bultfontein (O.F.S.) police station were charged with murdering 1 African and assaulting another with intent to murder, while they were investigating the theft of some money.

It was alleged in court that the man who died **HAD BEEN SJAMBOKKED** (hit with leather whip); **GIVEN ELECTRIC SHOCKS WHILE TRUSSED IN A SEATED POSITION; PARTIALLY CHOKED; SUFFOCATED WHEN HIS HEAD WAS TIED IN A PLASTIC BAG.**

The other man said he had been **PUNCHED, KICKED AND SJAMBOKKED.**

Two of the policemen were found guilty of culpable homicide with intent to do grievous bodily harm; two were found guilty of assault with similar intent; one was found guilty of defeating the ends of justice.

The policemen's sentences ranged from 9 years and 6 strokes to 3 years and 6 cuts. The Commissioner of Police announced that he had sent a directive to all police stations drawing attention to strict standing orders prohibiting the ill treatment of prisoners, and enquiring into an allegation by one of the young policeman (one of those convicted) **THAT BULTFONTEIN METHODS WERE COMMON PRACTICE**

(RDM 11 4 64)

These matters were raised in the Assembly (Hansard 13 cols 4836, 4861, 4898, Hansard 14 cols 5007-8). The Minister of Justice said that every policeman had to sign a copy of the standing orders. The police themselves had instigated an investigation and post-mortem in the Bultfontein case, and had charged the persons concerned with murder. The police had also made a thorough investigation of the alleged use of electric shock machines at police stations.

"IN SOME PLACES SUCH APPARATUS WAS FOUND, BUT IS WAS OBVIOUSLY IN PRIVATE HANDS", the Minister said

In reply to questions the Minister on 24th March indicated that 177 Police (White and Black) had been **CONVICTED** in the period 1960-1963 of offences involving irregular treatment of persons in custody, similar figures were given of convictions of Prisons Department officials

NKOSI, Mr. S.L. of Paulpietersburg, was found by the court to have been unlawfully assaulted by a White police constable, and was awarded damages of R 1 000 and costs.

(Race Relations Survey, 1964, p.101)

BOTHA, Mr. Marius. In the Cape Town regional magistrate's court on 11.12.74, the magistrate ruled that 13 statements made by Marius Botha, who was alleged to have set fire to 12 cars, were admissible evidence and had been made freely and voluntarily. An alleged confession made by Mr Botha to Capt. Jacobus le Roux was ruled inadmissible **BECAUSE HE HAD BEEN INTERROGATED FOR MANY HOURS WITHOUT SLEEP**, and not because he had not been fed, as was previously stated by a newspaper report.

(Cape Times 12.12.74)

HASSEN, Mrs Rookaya, Indian widow

Rand Daily Mail of 10th December, 1976 reported the case of a middle aged Indian widow, who told the Johannesburg Magistrate's Court on 9th December that at John Vorster Square a detective had smacked her face, pinched her breasts and threatened her, because he would not believe she was telling the truth.

Mrs Hassen was giving evidence against Det. Sgt Edward James Tiarney, 36, who appeared before Mr J Edworthy charged with assault. He pleaded not guilty.

Mrs Hassen said she was arrested just before midnight on 29th April at her home and taken to John Vorster Square. An "old man" asked her questions while Sgt. Tiarney slept. Later the two men drank brandy, then the old man lay down while Sgt. Tiarney questioned her about "stolen stuff" she had at home.

Mrs Hassen stated that he took her to another floor, and locked himself and her into an office, put out the lights, smacked her in the face several times, put his hands under her blouse and pinched her breasts. She cried and screamed and pleaded with him, but he would not listen. He pulled her down to the floor by her hair, then ordered her to take off her pants. He showed her an iron bar and threatened her. Mrs Hassen said she again pleaded with him and told him the truth.

Dr. Essop Jassat told the court he was Mrs. Hassen's family doctor and examined her on 4th May. She had abrasions on both cheeks and both breasts, and numerous weals on her back.

Mrs. Hassen was subsequently convicted at a court case and fined R 300, or sentenced

to 200 days' jail, and given a 3-year suspended sentence, although there had been no evidence against her, she told the court. She said she had appealed against her conviction.

The case against Det Sgt. Tearney was postponed to January 17th

HOMAN, Mr. Jan.

On 1.10.76 the Rand Daily Mail reported a Mrs. C.J. Homan of Park Street, Randfontein as having alleged that police tortured her son, Jan, during questioning connected with assisting a fugitive criminal (another of her sons, Chris - who was out on bail of R 1.000, pending an appeal against conviction and sentence for stock theft)

Mrs Homan said Jan had told her that the police had "PUT A WET SACK OVER HIS HEAD AND HAD GIVEN HIM ELECTRIC SHOCKS THROUGH HIS NECK". Jan, she said, intended laying charges of assault

JANUARIE, Messrs. H. (Snr. 62 yrs.) and H. (Jnr. 24 yrs.)

On 12.8.70 The Cape Times reported that a R7 483.96 action for damages was brought by the Januarie's against the Minister of Police, a police sergeant, Casper Johannes Burger, and a police constable, Dirk Petrus Losper, stationed at Touws River. Father and son alleged they were wrongfully arrested, detained and assaulted and maliciously prosecuted. In the process they underwent pain and suffering, injury to their persons and dignity, and incurred loss of earnings, legal expenses and costs. Mr. B.M. Kies, appearing for them, said their claim arose out of events on the evening of 13th July, 1968.

It was alleged in the Cape Town Supreme Court that a White police sergeant handcuffed a Coloured man's hand above his head to the iron bars of a police cell, so that he was forced in great pain to stand on his toes about half an hour. In 1968 the Januarie's were convicted at the Touws River Magistrate's court of helping a person to escape and hindering the police. They were each sentenced to 3 months imprisonment, suspended for 3 years, on the first count, and R40 or 40 days on the second count.

They won an appeal against this conviction and succeeded before Mr. Justice Beyers on 19th November, 1968.

In their plea in the supreme court, Burger and Losper admitted arresting the Januarie's, but denied having assaulted them. They admitted the two were detained in custody, and that Januare Jnr. was **HANDCUFFED TO THE WINDOW OF THE CELL "FOR A SHORT PERIOD OF TIME"**

MKIZE, Mr. Temba, of Port Elizabeth.

During 1971 two policemen were convicted of having assaulted a detainee, Mr. Temba Mkize. One of them was sentenced to six months imprisonment, three of which were suspended, and he was dismissed from the force. The other was fined R 100 transferred back to the uniform branch, and severely reprimanded.

Mr. Mkize brought an action for damages, claiming that he had been subjected to electric shock and other torture. This claim was settled out of court.

The Rand Daily Mail editorial of 15th November, 1971 objected to out of court settlements without public investigation or explanation, stating that there had been "altogether too many settlements of this kind - at least six that we know of in recent years, including R 5.000 paid to the Imam Heron's widow. In each serious allegations of assault or torture were made, but their truth was never fully tested.

They were left hanging in the air before an increasingly disconcerted public, whose suspicions are being aroused by this apparent eagerness of the authorities to avoid an airing of the facts in open court."

The Sunday Tribune of 5.9.71 referred to a Port Elizabeth case in which a policeman had been fined for his part in the brutal interrogations of a suspect. The court heard how the suspect had his knees FORCED THROUGH HIS ARMS, HAD A BROOMSTICK THRUST UNDER HIS KNEES AND WAS HUNG UP BETWEEN TWO PIECES OF FURNITURE AND REPEATEDLY SHOCKED WITH A HANDOPERATED GENERATOR. "How many times, in recent court cases and inquiries, have we heard mention of this diabolical electric machine allegedly used to shock information out of suspects?" the newspaper asked.

Race Relations Survey for 1972 states Mkize was paid R 1 250 in an out-of-court settlement, of which T 625 was to be recovered from each of the two convicted men.

(Race Relations Survey, 1972, P.92.

Minister of Police, Assembly 5.5.72

Hansard 13 cols. 964-5, R.D.M. 6.5.72)

"Cape Times" report dated 2.9.71 gave the place of the assault on Mr. Mkize as the New Brighton police station in the early hours of 2nd February 1971. The Magistrate Mr. B.P. Loots, found that Mkize was taken to a room at the police station, suspended from a broomstick and was shocked with the hand-operated generator before the court or a similar machine. He found, however, that only the ring-shaped injuries on Mr. Mkize's wrists had been caused in the assault. Other burn-like injuries he found were self-inflicted "probably between the time of his release and his seeing his lawyer."

MESSRS. NAIDOO, C.M., MAHLANGU, T. and MAHLANGU, P.

(Awarded R 1 600 damages for police assault)

In the Pretoria Supreme Court on 27.8.76, Mr. V.J. Hiemstra, Acting Judge President, awarded damages for police assault against the Minister of Justice, Mr. J.T. Kruger to the following: -

Mr. C.M. Naidoo	R 1 000
Mr. T. Mahlangu	R 200
Mr. P. Mahlangu	R 400

The men sued the Minister of Justice for R 13 000. They alleged they were assaulted, blindfolded, gagged and electrically shocked by four detectives attached to the house-breaking section of the Pretoria Central police station on 30th January, 1976.

Mr. Naidoo said he felt an increasing electrical shock being passed through his head. "My head felt in pieces". Detective Constable J.A. du Plessis was said to have apologised, saying "this is the sort of thing we have to do every day."

Three surgeons said they found evidence of shock and assault on the three men on the day after the incidents were alleged to have occurred.

Mr. Justice Hiemstra said it was entirely clear that the policemen had not been frank with the court. He could not say with certainty whether the police had a shock machine, because the claimants had been blindfolded and had not seen the instrument. Lt. Gen. P.W. Kruger, Chief Deputy Commissioner of the C.I.D. Branch, said later he had no knowledge of any machine used for shocks in possession of the police. It was an allegation that was frequently used against the police, but "generally has proved to be unfounded."

He added that if steps were taken against the three policemen (former Det. Sgt. C.H. Breytenbach, now a security officer with a private firm, Adjutant Officer, P. Look, Detective J. Young and Detective Constable J.A. du Plessis were mentioned in the reports of the trial) they would be taken departmentally, and not made public.

The attorney in the case, Mr. P. Geyser (son of Professor Albertus Geyser), who acted for the applicants, said he had been threatened with physical violence by the police when he tried to investigate the allegations of his clients.

(Sunday Times 29.8.76; Cape Times 10.8.76 and 28.8.76)

VILAKAZI, C.; GAMEDE, N. and MANZINI, F.**3 Awaiting trial prisoners get restraint order on Police**

On 21st January, 1978 Mr. Justice Milne in the Maritzburg Supreme Court granted an order restraining the Minister of Police, the Attorney General of Natal and five senior police officers from assaulting or molesting three awaiting trial prisoners.

The accused, who were alleged to have murdered Mr. H. Dalhuyzen and also face theft and armed robbery and other charges, told the court that they had been **TORTURED WITH AN ELECTRIC SHOCK MACHINE, KICKED AND PUNCHED BY POLICE.**

Mr. Vilakazi said in an affidavit that he was arrested on 2nd November and held at Madadeni. Electric current was **APPLIED TO HIS FINGERS AND PRIVATE PARTS** and he was asked to tell police where guns and money were hidden. On January 12th he was punched and kicked and **A DOG WAS ALLOWED TO BITE HIM ON THE ARM**. **TWO POLICEMEN TIED HIM TO A TREE AND PUT A MOTOR CAR TUBE AROUND HIS HEAD SO THAT IT COVERED HIS FACE**. HE WAS PUNCHED AND KICKED.

Mr. Gamede and Mr. Manzini said in affidavits **THEY HAD BEEN TORTURED BY HAVING PLASTIC BAGS PUT OVER THEIR HEADS. THE BAGS WERE SQUEEZED TIGHT TO EXPEL THE AIR, THEN FILLED WITH WATER.**

The third part of their application - restraining police from interrogating them - was not granted.

The interdict names the Minister of Police, Mr. J.T. Kruger, the Attorney General of Natal, Mr. Cecil Rees, S.C., the commander of the Newcastle police station, Captain Heunis, the commander of Madadeni police station, Lieut. Mazibuko, the acting district commander of police at Dundee, Capt. Audi, and an investigating officer, Lieut. Geldenhuys. "Natal Mercury" 22 1 77 - "Cape Times" 24 1 77

POLICE AND INDIAN "MAFIA GANG".

(2 men dangled from window at J V Square)

During the hearing in the Transvaal Supreme Court, Pretoria, in April 1974, in the matter of the appeal of Advocate Yusuf Mohamed Patel against a 4 year conviction for defeating the ends of Justice, the court heard allegations concerning collaboration between police and Indian men to commit fraud on merchants throughout South Africa.

The venue was the office of the Fraud Branch at John Vorster Square, Johannesburg. A Captain Daniel Engelbrecht, and Sergeants Herts and Olivier were involved.

In arguments before Mr. Justice Trengove and Mr. Justice Eloff, Mr. D. Soggo (for Mr. Patel) submitted that the evidence about **'CAPT' ENGELBRECHT'S INVESTIGATIONAL METHODS** and the conduct of certain Indian gangsters who assisted him, created a danger that the evidence before the court was contaminated by falsity.

Miss Geraldine Borchards for the State, admitted that the State relied primarily on the evidence of self confessed perjurers, or witnesses whose evidence was unacceptable. Nevertheless there was sufficient objective and acceptable evidence to warrant the convictions against Mr. Patel.

The gang consisted of Fozie Rasool, Baboo Patel, Cassa Thambi and Morgan Naidoo. Part of the evidence dealt with by Mr. Soggo including the following:

- * The gang **HELD TWO MEN, one an Indian policeman (Const. Mohamed Kahn), OUT OF A THIRD FLOOR WINDOW AT JOHN VORSTER SQUARE AND THREATENED TO DROP THEM UNLESS THEY CHANGED STATEMENTS THEY HAD MADE.**

Constable Kahn alleged that Thambi smacked him and pulled him about by his uniform jacket, telling him that a statement he made at Kiptown was false.

The three Indians lifted me off my feet and carried me to the window, where they threatened to throw me out", said Const. Kahn. "I screamed, but no one came to my assistance. I then agreed to make a statement as they wanted me to say."

He was taken to the next room and White detectives came and told him Capt. Engelbrecht wanted to see him. He made a statement to Capt. Engelbrecht, and while he was doing so, the three Indians walked in and out of the room. Const. Kahn said the statement he made to Capt. Engelbrecht was false.

* The gang abducted a witness, Mrs. S. Kaje, who had given and would continue giving evidence for the defence of Mr. Patel. They ordered her to make a statement contradicting her evidence in court, otherwise SHE WOULD NOT SEE HER CHILDREN AGAIN. They then phoned Capt. Engelbrecht after the abduction and took her to police headquarters in Pretoria next morning.

There Capt. Engelbrecht told General Buys, then head of the C.I.D., that she wanted to make a statement - but he did not tell Gen. Buys that she was a defence witness still giving evidence in the Patel case.

Mrs. Kaje was released when a Col. Fick from Johannesburg, acting on instructions from Brigadier St. John Pattle, then C.I.D. Divisional Commissioner of Police for the Witwatersrand, arrived and arrested the Indian gang. Mr. Soggott said Brig. Pattle in his testimony had stated: "I will put it this way - in view of the investigations instituted by me, I have always felt there was something underhand on the go."

A Johannesburg merchant, Mr. J.P. van Zyl, testified that he was defrauded of R8000 by the gang. When he tried to lay a complaint against them with Capt. Engelbrecht, he was told it was not worth while because there were already many charges against them. He came to the conclusion that Capt. Engelbrecht and the gang were working together.

It was also alleged in court that the gang and the policemen involved held parties in the offices of the Fraud Branch, that Indian women were provided for Capt. Engelbrecht and Sgt. Hertz at a party at Lenasia, that the police telephones were used to commit fraud on merchants throughout South Africa, and that Capt. Engelbrecht made reports against senior police officers who were investigating the gang.

Capt. Engelbrecht was also said to have incited the gang to assault Mr. Yusuf Patel outside a court. In evidence, Capt. Engelbrecht agreed that the gang tried to assault Mr. Patel, but said he had stopped them. He also agreed that he had recommended and obtained permission for members of the gang to carry firearms, but that he had no knowledge at the time that any of them had a criminal record.

Another Johannesburg businessman, Mr. Cecil Kandier, testified that after he had made a statement that he had witnessed a police assault on Mr. Patel, he was detained by Capt. Engelbrecht and Sgt. Hertz and the four Indians.

He was taken to John Vorster Square and locked up in a cell. The next day, he alleged, he was taken to a third floor office. The four Indians were there with Capt. Engelbrecht, Sgt. Hertz and Sgt. Olivier.

Mr. Kandier said the Indians asked him questions about Mr. Patel. He said he told them he did not know the answers. He claimed HE WAS THEN LIFTED UP AND HELD HALF-WAY OUT OF THE WINDOW BY THE INDIANS.

In the presence of Capt. Engelbrecht and the two sergeants, they threatened to throw him out. HE AGREED TO SIGN ANYTHING THEY WANTED. The next day he was given four typewritten papers to sign. He was then released.

("Sunday Times" 7.4.74).

9. Allegations of torture of detainees in Namibia / S.W.A.

NAMBIA.

Bishop Johannes de Vries, head of the Evangelical Lutheran Church and vice president of the United Evangelical Lutheran Church, said Church leaders in South West Africa gave the Prime Minister, Mr. Vorster, the name of 37 Black people, who were allegedly tortured. The men would willingly give evidence at a commission of inquiry, provided the Prime Minister personally guaranteed their safety. This was in April 73. In August the Church leaders received a letter from the Department of the Prime Minister to the effect that the matter had been investigated and the allegations were without foundation.

The Bishop said he was now disclosing what had happened, because the church leaders believed that Mr. Vorster had done nothing about their allegations. He said the situation in South West Africa was now worse than ever.

(Reported in Sunday Times 14.4.74)

Bishop de Vries was backed by Bishop Richard Wood, Anglican Bishop of Damaraland, and Mr. Gerson Vei, leader of SWANU. Bishop de Vries said they had told the Prime Minister of concrete information that some of their people were being **TORTURED BY ELECTRIC SHOCKS AND BEATINGS**.

They also complained of visa refusals for church workers and deportation of missionaries, as well as refusal of passports for students wishing to study overseas. They complained of the contract labour system and break-up of family life, that pastors and congregations could not travel freely about the country, and that the people of South West Africa had no trust in the police or soldiers of South Africa **BECAUSE THEIR BRUTALITY IS SO GREAT**.

Bishop Wood said from his own personal experience, he had spoken in South West Africa with many people who alleged having experienced various types of tortures while held in detention by the police. This included **ELECTRIC SHOCK, BEATINGS, HOLDING UP OF HEAVY STONES, STANDING FOR HOURS WITH ARMS RAISED, CONFINEMENT IN HUTS UNBEARABLE HOT WITH HUMAN EXCRETA ON THE FLOOR, AND SOLITARY CONFINEMENT OF A SEVERE NATURE**. He believed this state of affairs had been brought to the notice of the highest government official in South Africa, and to the best of his knowledge no answer had been given to these allegations. He was confident that sworn affidavits could be produced to support the claims.

"It is such a damning allegation that I believe no country desiring to be known as part of Christendom can neglect to both expose the truth and, if the allegation is proved, remedy to evil."

Mr. Gerson Vei said "Some years ago I was tortured by the police - and I would be prepared to testify before a commission of inquiry. So would others I know who were subjected to similar treatment. Nobody in South West Africa doubts that people are being tortured."

JOHANNES, Mr. Axel and NKANDI, Mr. Victor.

Two members of the SWAPO organisation alleged police brutality in the Windhoek Supreme Court on 2.7.76.

Mr. Johannes (Secretary General of Swapo) and Mr. Nkandi (a member) were applying for leave to appeal against sentence of 12 months imprisonment imposed for refusing to testify against the accused in the Swakopmund terrorism trial (death of Chief Ellifas).

Johannes said: "I was deprived of sleep and food for long periods, and assaulted in various ways. Serious threats were made against me. The experience was frightening

and intimidating.

Nkandi said he was chained, kept in solitary confinement and, on one occasion, knocked unconscious. "STAR" 27 76

KOMATI, Mr. Thomas Ndahikutala.

The "South African Outlook" for January, 1975 gives a detailed account given by Mr Komati, a 22 year old Owambo ex detainee, to Mr Clive Cowley who prepared it for publication.

It is a moving account of his long spell of solitary confinement, of deprivation ("I was taken out of my cell for my fortnightly meeting with the magistrate, but apart from this, I was not allowed out except for a shower in the yard once a week. I had no running water in my cell. A bucket and a mug were provided. This was my supply of water for drinking and washing. The bucket was refilled every four or five days. My only food was mealie meal. I was given mealie meal for breakfast, lunch and supper throughout the 2,5 months I was in Dordabis") and of the increasing disorientation of his mind.

"When I learnt that I was no longer to be held or charged under the Terrorism Act, I was very relieved" (He was to be charged for scratching Swapo slogans with a spoon on a cell wall while in detention). "I welcomed the prospect of being sent to jail immediately as an ordinary prisoner because of my yearning for the companionship of fellow beings even if they were criminals. The horror of uncontrolled thoughts and fears over months and months was, for me, a worse punishment sensed not only as unendurable pain but as the slow destruction of myself as a human being."

(Affidavit filed with Windhoek Magistrate's Court 29 7 74)

MBINDI, Mr. Gabriel (68).

SWAPO Terrorism Act Trial

In December, 1967 Mr Joseph H Shityuvete in an urgent application to the Supreme Court, Pretoria, sought the Court's protection for co-detainee, Mr Gabriel Mbindi. He alleged that 68-year old Mr Mbindi had twice been assaulted by Special Branch detectives who were interrogating him. ON THE SECOND OCCASION HE HAD BEEN HANDCUFFED TO A WATER PIPE, SO THAT HIS FEET BARELY TOUCHED THE FLOOR, BLINDFOLDED, STRUCK IN THE FACE, KICKED AND THREATENED WITH DEATH. He feared further assaults.

Mr Shityuvete said he could believe these allegations BECAUSE HE AND OTHERS HAD BEEN SIMILARLY ASSAULTED.

Four other prisoners submitted affidavits supporting the allegations.

On 19th December the judge directed that adequate steps be taken to protect Mr Mbindi from assaults by the police. The respondents (Commissioner of Police, O C Pretoria Local Prison, and the Minister of Justice) strongly denied the allegations. A court order was issued restraining the police from interrogating Mr Mbindi. The hearing was set down for 20th February, but then it was announced that after 8,5 months in custody, Mr. Mbindi had been released in 16th February and had gone to Windhoek.

Later the matter was taken off the roll when it was revealed that a settlement had been reached out of court. Mr Mbindi had not been charged, and on his release was paid R92 for witness fees. The State also paid R3.000 towards the costs of the application made for a court order "without prejudice or admissions" and because the respondents "feared they might be litigating against a man who might not be able to meet an order for costs, should they succeed."

("Star" 19.12.67, R.R Survey, 1968 P.53)

MERORO, David Hosea.

In the Windhoek Magistrate's court on 14.10.74, a police officer, Major G.J. Stadler, said he had not allowed Mr. Meroro (a Terrorism Act detainee) out of his cell for exercise during a three months period (22nd March to June) because his cell was big enough. It measured about 4 x 4 metres, and he could run and jump in it.

Mr. Meroro, chairman of SWAPO, pleaded not guilty to being in illegal possession of 8 copies of the "African Communist". He was held incommunicado under the Terrorism Act for 159 days until 15th July, 1974. His lawyer said he would lead evidence that Mr. Meroro was "TREATED BRUTALLY AND ASSAULTED BY THE POLICE" after his arrest. (Cape Times 15.10.74)

MALUA, Miss Kauno.

On 26th February, 1976 at the Supreme Court, Swakopmund trial in connection with the assassination of Chief Elifas, a State witness, Miss Kauno Malua, said she had been strung up by a chain from the ceiling of a room for ten hours by the police after her arrest in October, 1975. She had been detained at Ondangwa with nurses from the Engela Hospital in Owambo. She stated that she gave the police a statement after she was arrested, but they were not satisfied with it, and it was torn up.

(Cape Times 27.2.76)

NAMPALA, Karel and WILLEM, Gabriel.

On 13th September, 1976 the "Windhoek Advertiser" reported the trial of Karel Nampala and Gabriel Willem, on charges relating to housebreaking and also, according to the indictment, one time associates of an alleged terrorist. Mr. Nampala stated that Police had connected him TO AN ELECTRICAL SHOCK MACHINE BY HIS TOES AND EARS.

A magistrate, Mr. C. Botha, told Mr. Justice M.J. Hart, that he had visited the accused in jail. He testified that he had SEEN MARKS ON THE TOES AND INSIDE THE EARS OF MR. NAMPALA, whom he had visited in jail.

The prosecutor, Mr. H.F. van Zyl put it to Nampala that his allegations of torture were made up simply to "discredit the Police".

Gabriel Willem made similar accusations of torture against the Police.

Judge: "How do you personally, Captain, feel about the allegations (of torture) which were made here today?"

Captain Kruger (of S.A. Police, Johannesburg): "I would say that there have been so many allegations of torture and shocks made against the Forces and against myself, that I no longer bother about them."

Judge: "This is, therefore, not the first instance?"

Capt.: "No, this is not the first instance. I have been with the Murder and Robbery squad in Johannesburg for the last fourteen years and these allegations are made against us daily in court. So far no allegation has ever been proved against me."

Judge: "That is what I wanted to ask you in all sincerity: there have been many allegations, it happens especially in Johannesburg?"

Capt.: "That's right."

Judge: "You can say: daily?"

Capt.: "Yes, that is right. But there has never been an allegation which could be proved, or any sentence against me."

After a "trial within a trial", the Court ruled that the allegations of torture were not substantiated. The reasons given were the following: -

- One of the accused, when cross-examined, got mixed up as to the exact succession of the different elements in one afternoon's torture session: beating, kicking,

- jumping on him, electrical shocks, blindfolded, suffocating
- one accused got confused as to the day of the week on which the torture session took place which followed the shoot out in Katutura. He thought the shoot-out had happened on a Sunday night, in fact it was on a Monday night. (one has to consider, though, that this Monday was Easter Monday, therefore a public holiday, after several months of endless and allegedly brutal investigations and solitary confinement, a rather explainable inaccuracy)
- failure to report maltreatment to visiting magistrate. (The accused claimed that in between Magistrate's first and second visits, an investigating officer had made a threatening remark that he was not pleased about their reporting to the Magistrate)
- refusal to lay a charge when visited by a policeman. Accused said "How can you charge the police while you are in their hands? We were afraid of them."

(The account from the exchange between the Judge and Capt. Kruger, to the end, is taken from a report 'The Cancer of Torture in S.W.A. - Namibia' by Heinz Hunke, OMI, Windhoek November 1976.)

PETRUS, Mr. Bernardus and ISAAKS, Fredericks.

Mr. E. Kuhlmann of the Nama delegation to the Turnhalle conference told on 8th December, 1976 how he was forced to intervene on behalf of his nephew, Mr. F. Isaaks, when he heard that Black students arrested in connection with the burning of the Augustineum Training College in Windhoek in November had allegedly suffered brutal police torture, including electric shock.

Claims of brutal torture inflicted on Mr. Isaaks and a fellow student, Mr. Bernardus Petrus, were described as absolute nonsense by the Divisional Commissioner of Police, Brig. Verster.

Mr. Kuhlmann said he enlisted an attorney's help to see his nephew in custody when he heard he had been given electric shock and severely assaulted. He said a Lieut. Nel was responsible for the torture, but the lieutenant denied the accusation.

Mr. Kuhlmann said "I know I can trust Frederick because I brought the boy up."

According to other reports, Bernardus Petrus was so badly assaulted, he could neither eat nor talk for several days. Reports alleged he was tied to the burglar bars of a police office and then assaulted. When he asked for water, police played with water in front of him and threw it over him. He too was allegedly tied to a chair and given electric shock treatment "through an iron bar."

Mr. Kuhlmann said his attempts to have the students examined by an independent doctor failed, because the doctor was prevented on the grounds of being a member of Swapo. He said he was most concerned about the students, as several people had reported seeing them at the hospital where police had taken them for treatment.

(Daily Dispatch 9/12/76)

10. Specialists' statements in regard to torture

THE TORTURE OF SOLITARY CONFINEMENT.

On 8th December, 1983 80 leading psychiatrists, psychologists, and medical specialists in the Cape and Natal appealed to the Minister to abolish the system of detention in solitary confinement.

Experimental studies in various countries of political prisoners subjected to this form of detention had indicated that the experience was associated with intense distress and the impairment of certain mental functions, they said. The exposure of individuals to this suffering for indefinite periods of time was no less abhorrent than physical torture. Scientific evidence existed which suggested that prolonged isolation might cause a disturbance of judgment to the point where the individual's testimony was no longer reliable.

(R.D.M 17.12.83, R.R. Survey 1964, Pp.71,72).

In June, 1964 431 professors and lecturers at the English-medium universities signed a petition to the Minister urging him not to retain the 90-day clause. On 30th November the Minister of Justice announced the suspension of the 90-day clause from 11th January, 1965.

AFFIDAVIT BY PROFESSOR RONALD ALBINO,

Head of the Department of Psychology at the University of Natal

(among papers forming part of an application concerning the admissibility of evidence on Security Police methods of interrogation. The Judge President of Natal ruled against the application. See also affidavit by John Schlapobersky)

In a lengthy affidavit, Prof Albino said there is evidence that under laboratory conditions, isolation leads to changes in psychological functions

"It led among other things to hallucination, inability to concentrate, lack of clarity in thinking, difficulty in organising thoughts, disturbances in time perception, obsessional acts and thoughts, disturbances in sense of self identity and talking to one self"

In 1957-58 he carried out experiments on the effects of isolation on individuals confined in small rooms for short periods. Since that time, he had become acquainted with the published literature on the effects of isolation and interrogation

Referring to the affidavits filed by ex-detainees and accompanying the present application to court, he said he had assumed they were true.

"In my opinion there is a consistence between the affidavits and what is known of the effects of isolation. Furthermore, I am of the view that the ex detainees, unless possessed of extensive knowledge of psychopathology and the effects of isolation, are unlikely to have been able to contrabulate the affidavits", he said

"It was notable that at least two people made knowingly false statements and that one person still could not be sure of how much of what he said was put into his mouth by his interrogators, and how much was his own.

"And one person appeared to have made and signed a statement in a state of gross confusion which demanded treatment"

There was no doubt in his mind that most of the detainees made statements in a state of mind that would, in ordinary life, be regarded as abnormal

"In my opinion, on the evidence of the affidavits, it can be reasonable assumed that the procedures used are a form of duress in that they compel a person into a state where he is not in full possession of his faculties." (ROM 8/9th Febr 72)

11. Statements by Minister of Justice, Police and Prisons

- * Alleged Assaults on 90 day detainees, 1964
- * Actions for damages to 1971
- * Comment by Professor J Dugard
- * 117 Deaths of "ordinary" detainees in 1976
- * Convictions of Police during 1975.
- * Police payments for assault and unlawful arrest
- * Press conference, 1977.

ALLEGED ASSAULTS ON DETAINEES.

The Minister of Justice, question in the Assembly on 31 1 64, (Hansard 2 cols 566-7) about complaints made to police officers alleging assaults by policemen or warders on 90-day detainees, replied that there had been 49 complaints.

23 allegations stated that a detainee had been HIT AND/OR KICKED,

20 that in addition ELECTRIC SHOCKS HAD BEEN GIVEN;

3 that the detainee HAD BEEN HIT WITH A FIST;

1 that he had been HIT AND HAD HIS ARMS TWISTED, and

1 that he had been HIT, SLAPPED, AND THREATENED WITH A FIREARM.

The Minister said that of these complaints 32 had thus far been investigated and none was found to be of substance.

Mrs. H. Suzman maintained that detainees were afraid to complain about assaults, since they were either in the hands of the very people who had assaulted them, or else, if they had been freed, they ran the danger of re-arrest under the 90-day clause. (Assembly Hansard 22.1.64, cols. 142-3; and Feb. Hansard 3 cols 882-5).

Opposition parties called for a judicial commission of inquiry. On 11th March the Minister refused, saying no case had been made out for any of the alleged assaults. He said he had placed the papers resulting from his investigation into 48 complaints before the Attorneys-General, and with the exception of 4 which were pending, the Attorneys-General had decided that there was no case at all to prosecute.

But apparently there was one prosecution, for on a later occasion (Hansard, Senate 8 col. 2148) the Minister added that "In the case of the Eastern Cape there was a prosecution and the people were found guilty and severely punished."

ACTIONS FOR DAMAGES.

The Minister of Police, in reply to questions in the Assembly (Hansard 3 col. 973) said on 4th August, 1970 that since 1964 22 ex-detainees and two next-of-kin had brought actions for damages against himself and/or members of the police force.

Three cases had been settled out of court:

R 1.000 had been paid to Miss S. Kemp

R 1.100 to Mr. A.S. de Oliveira and

R 1.100 to Mr. F.S. Gordinho.

Twenty cases were pending, but in eighteen of these the plaintiffs did not proceed with the actions after the State had filed pleadings and, in some cases, had called for further particulars.

(Race Relations Survey, 1970, Pp. 56,57)

In connection with Mr. Alan Brooks, who demanded R 4 000, a settlement was not publicly announced.

(Race Relations Survey, 1966, p.75)

R.3.000 was paid to Mr. Gabriel Mbindi without any admissions whatsoever about the alleged assault.

(Race Relations Survey 1966, p.54)

R 1.000 was paid to Mr. Cedrick Mkencele in the Supreme Court (re assault in the "Local Security Police headquarters").

(Evening Post 21.5.68)

R 5.000 ex gratia paid to Mrs. Haron.

(Cape Times 19.5.71)

PROFESSOR JOHN DUGARD (professor of law at the University of the Witwatersrand).

Professor Dugard was reported (Cape Times 19.5.71) to have called for a public examination of the methods of interrogation used by the Security Police, either by a court of law or through a judicial inquiry. He commented of the R 5.000 payment made ex gratia to the widow of Imam Abdullah Haron.

"Where payments are made out of court in this way the public is left with the impression that the State has something to hide. In other words, that it does not want the methods of interrogation employed by the Security Police to form the subject of an open examination before a court of law."

ASSAULT OF "ORDINARY" DETAINEES.

Assault of ordinary, unpolitical detainees, held in connection with criminal charges unrelated to security laws, is fairly common and has been proved in court on several occasions.

Senator Rall of the United Party, on 30th April, 1963, told this story in Parliament of his days as a magistrate. He said: "many a day when I was on the Bench I saw a bloody face in the Box and would accuse the police of having man-handled the prisoner. . . . In one case, because of my objections, a certain policeman who was always bullying accused prisoners was transferred to the North Coast of Natal. Two years later he was sentenced to 6,5 years imprisonment in the Supreme Court for having brutally murdered a prisoner. The then Minister of Justice released him after he had served only six months. But he went further and re-employed him as a prison warder."

The "Argus" of 24.2.77 reported that the Minister of Police, Mr. J. T. Kruger had told Parliament the previous day, in reply to a question from Mrs. Helen Suzman, M.P. that there were:

- * 117 deaths last year among people detained
- * under laws other than security laws.

Of these, 18 were suicides, 8 people died of gunshot wounds received during attempts to escape, and 12 died from injuries received while being arrested.

The figure for the previous year (Assembly Hansard 16 cols. 1064-70 21.5.76, quoted in the 1976 Race Relations Survey, p.122) was: 92 deaths.

CONVICTIONS OF POLICE. - DURING 1975.

Replying to a question, the Minister of Police told Parliament that during 1975

68 White and

102 Black policemen were convicted of common assault.

2 White and

17 Black policemen were convicted on assault with intent to do grievous bodily harm.

4 Black policemen were convicted of culpable homicide.

193 Total.

Of these men, 12 had previous convictions for common assault, and 2 had convictions for serious assault. 8 of the convicted White police and 10 of the Black were discharged from the Force. A total of 18 discharged, leaves a balance of 175 convicted men remaining in the Force.

In an article in the "Sunday Tribune" of 5.9.71, it was stated that General J. P. Gouws, former Commissioner of Police, had said in March, 1971 that the figure of 455 policemen retained in the force after convictions for violence in the last two years was "a very low one". Of these, 75 had previous convictions. "The S.A. Police owes it to the public and to the majority of decent policemen to take the strongest action against criminally violent policemen - an that means sacking them."

POLICE PAYMENTS FOR ASSAULT AND UNLAWFUL ARREST.

The Minister of Police said on 4th May, 1976 in the Assembly that almost R 51.000 was paid out by the S.A. Police to members of the public for cases of assault and unlawful arrest.

Replying to a written question by Mrs. H. Suzman, (PRP Houghton) he revealed that in 34 cases of assault R30.888 was paid to members of the public;

in 31 cases of unlawful arrest, some R20.105 was paid out.

In 9 of the cases the court actions resulted from assault, unlawful arrest and detention. (R.D.M. 5.5.76)