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ARRESTS AND DETENTIONS, POLITICAL TRIALS AND BANNINGS

The Matsau Terror Trial:

Mr. Nkutšoeu Matsau, organising Secretary for the Sharpeville Youth Club in Vereeniging and a member of the Black People's Convention was the first person to be sentenced under the Terrorism Act in South Africa in 1974, although he was arrested and detained late in 1973—October 5th.

Mr. Matsau had been originally arrested with four other members of the Sharpeville Youth Club, Mr. Vusumzi Tshabalala, Mr. T. Tseka, Mr. Moeti Matlhare and Mr. Mantswe Ramakhoasa. The latter four were later released.

Mr. Matsau was found guilty of two acts of terrorism. He appeared before the Judge President of the Transvaal, Mr. Justice Cillie in the Rand Criminal Sessions. He was sentenced to five years imprisonment (the minimum under the Terrorism Act).¹

An application on behalf of Matsau for leave to appeal against the conviction was dismissed by Mr. Justice Cillie. The Judge also refused an application for bail pending a petition to the Chief Justice for leave to appeal.²

Mr. Justice Cillie found Matsau guilty of two acts of 'participating in terrorist activities with the intention of endangering the maintainance of law and order in South Africa'.

According to the findings of the court Matsau had done this through the publication of a poem and a youth club newsletter 'which were likely to incite feelings of racial hostility between White and Black races'.

Matsau was found not guilty of inciting or encouraging one or more persons to undergo military training with the intention of endangering

the maintenance of law and order or with the intention of furthering the objects of Communism.

The Judge also found that the State had failed to prove that Matsau had been party to a conspiracy to attack the white inhabitants of Vereeniging.³

He said it was clear that Matsau had devoted himself to the spreading of the doctrine of Black Consciousness, Black Solidarity and Black Communalism. He had also attacked the educational system provided for black people in South Africa.

His writings, published or unpublished, stressed grievances of the black man against a common enemy—the white man. Referring to the poem “Kill, Kill” the Judge said, while it might not influence people to shoot and rape white women, it was likely that it would engender feelings of hostility between Blacks and Whites.

He had been asked by the defence to look upon it merely as a piece of poetry incorporating Black Consciousness. No direct evidence had been given, however of what Matsau’s intention was in handing out the poem.

The Judge said, in the newsletter Matsau condemned the presence of Whites in South Africa in such a way that the only interpretation was to engender hostility between Whites and Blacks.

When Matsau was led down to the cell after the sentence was passed, clenched fists shot sky-high in the packed public gallery in a ‘Power’ sign used by members of the Black Consciousness Movement.⁴

The Pro-Frelimo Rallies—Arrests and Detentions.

On September 25, 1974, a transitional Government, dominated by the Front for the Liberation of Mozambique (FRELIMO), and leading to an ultimate independent Mozambique rule, was introduced in Mozambique.

This was the climax to Frelimo’s win of their ten-year war against Portuguese colonialism.

The Black People’s Convention and the South African Students’ Organisation jointly announced plans of organising rallies in Durban, Cape Town, Port Elizabeth and Johannesburg to coincide with the introduction of the Mozambique transitional Government, ‘to show our solidarity with the people of Mozambique who have been freed by Frelimo’. The students of the University of the North (Turfloop) also organised a similar rally.

A couple of days before the rallies, a white business man, Mr. Cornellius Koekemoer from Durban, sent a telegram to the Minister of Justice, Mr. Jimmy Kruger, urging him to ban the rally in Durban, which was scheduled to be held at the Curries Fountain Stadium. He threatened that if the Minister did not ban the Durban rally, thousands

of Whites in Durban would take it upon themselves to see that the rally did not take place.

The night before the rally, the Minister of Justice announced in Parliament that all gatherings organised by the South African Students Organisation and the Black People's Convention would be banned, with immediate effect until October 20, making the country-wide ban effective for one month from the day it was gazetted. The ban which was in a special Government Gazette on September 25, was in terms of the Riotous Assemblies Act of 1956.⁵

According to a statement printed in the *Daily News* of September 25, apparently issued by the Black People's Convention—South African Students' Organisation press secretariat, which said, "This afternoon's rally will go ahead as scheduled...." it appeared that the organisers had not been disturbed by the ban, and that plans were as had been concluded.

The plans for a similar solidarity rally organised by the University of the North, near Pietersburg, also went ahead on the campus. It appeared certain that the Government ban on South African Students' Organisation and Black People's Convention meetings did not affect the University of the North plans because that particular celebration was organised entirely by the Students' Representative Council.

Events at the University of the North

According to information from students spoken to on the campus, a thousand odd students gathered in the University hall and listened to speeches. While one speech was in process, police arrived in riot vans and parked inside the campus. They were armed with rifles, pistols, sten guns, scatter guns and batons. They also had dogs.

Major J. S. Erasmus, acting District Commandant of Police in Pietersburg, who was in charge of the police, walked into the hall and, speaking through a megaphone told the students the meeting was a contravention of the Riotous Assemblies Act. He gave them fifteen minutes to disperse.

The Students left the hall and gathered on the sportsfield next to the hall and sang the African National Anthem. After about five minutes they dispersed and went to their respective hostels. The men students had to go past the cordon of armed policemen who had jumped out of fifteen riot vans and five squad cars.

As the men went past the police, the latter baton-charged them and the students retaliated by throwing small available stones at the police. The women then came back and angrily shouted at the police to stop molesting the men. The police then turned on the women and one was knocked down with a baton blow. The men came to the women's

rescue and the police set the dogs on the men, some of whom were now in physical scuffles with the police.

A male student, Mr. Peter Tsie, was badly bitten by a dog and was arrested together with two others. The students warned the police that unless their arrested fellows were released unconditionally, not a single police vehicle or policeman was going to leave the campus.

Major Erasmus ordered his men to release the students, but Mr. Tsie was taken to Pietersburg Hospital where he received fifteen stitches for dog bite wounds. The Major later told the newspapers that charges of public violence would be laid against the three students, but no charges had been laid at the time of going to print.

The police claimed they had come to maintain peace and order, but an eye-witness claimed she saw an ambulance arrive during the course of the students gathering in the hall, even before the police had arrived. She said she could not predict at the time that the ambulance was preceding police troops and violence.

The rally came shortly before the University closed for a short holiday. The University authorities announced during the holidays that the holidays would be extended. During the extension period it was reported that two students, Mr. Gabriel 'Kaunda' Sedibe, President of the Students' Representative Council and Mr. Pandelani Nefolovhodwe National President of the South African Students' Organisation, also a student at the University, were arrested by the Security Police.

On reopening, the students staged a sit-in protest in front of the Mankweng police station near the University, while senior members of the S.R.C. served the station commandant with a petition calling for the release of the arrested students.

The police then arrested Mr. Cyril Ramaphosa, chairman of the local committee of the South African Students' Organisation.

Events at Durban

As has been indicated above, the first of a country-wide series of rallies had been planned and scheduled to be held at the Curries Fountain Stadium in Durban. According to reported plans, the rally was scheduled to go ahead between 17.30 and 18.30 on the 25th September, the day on which the new Frelimo transitional Government officially took office in Lourenco Marques.

It was also planned that Frelimo officers should address the series of rallies in South Africa. A report in the *Sunday Times* of September 22, 1974 revealed that a representative of the South African Students' Organisation, 'already in Lourenco Marques, had approached the Frelimo leader', for the first meeting. It was further revealed in the same report that one more man had been dispatched by the Students'

Organisation to go and negotiate for three additional Frelimo speakers for further rallies in Johannesburg, Cape Town and Port Elizabeth.

Hundreds of pamphlets announcing the rally and the Frelimo speakers had been distributed in Durban, and several bill posters were put up around the city. After a few days' effective publicising, keen interest arose in the city, especially within the Black Community.

Below we quote an extract from a pamphlet issued by the South African Students' Organisation in April 1975, entitled "THE FRELI-MO RALLY—THE FACTS AND AN EVALUATION", giving an on-the-spot account of the situation at the Curries Fountain area on the historic September 25, 1974:

"On Wednesday, 25th September, 1974 at about 17.30, over 2 000 people gathered outside the Curries Fountain on the embankment opposite the entrance to the stadium, despite the banning of the rally. The atmosphere was thick with expectation. The hum of excitement and genuine solidarity were indicative of the Black Community's mood.

"White police of course, were already present, having cordoned off the area around Curries Fountain, and preventing anyone from entering the stadium. Reinforcements continued to arrive with all their paraphernalia—dogs, swagger-sticks, riot vans—a pathetic show of force.

"By 17.40 the number of people had increased to between 4000 and 5000. Encouraged by the free-wheeling atmosphere and unconcerned by the racist show of force, the crowd began to sing and dance. The National Anthem, 'Nkosi Sikelela iAfrika', was chanted, the Black power salute was given, and many people shouted slogans including 'Viva Frelimo'."

The pamphlet went on to describe how the joint crowd tried to move towards this direction and that, on each occasion finding the police having closed in on them; and how the police eventually, without warning, unleashed the already excited Alsations into the unarmed peaceful crowd'. A *Daily News* report of September 26 claimed that the District Commandant for Durban West, Colonel A. Jordaan, who was apparently in charge of the police units present, had tried to address the shouting crowd through a hailer. Apparently the people took no notice of him as he called, "Attention, attention", and "Stop, stop".

At about 18.10, as the crowd "turned and headed down the roadway in the direction of the city.... ..the order was given to use the dogs".⁶ Reports claimed that the police moved in with what appeared to be preplanned precision as people turned and clambered up the embankment with the dogs at their heels. Screams filled the air as women and men were bitten by the dogs. One source claimed that one of the people bitten by the dogs was a pregnant woman. While people fled in all directions, police squad cars moved in at high speed, to prevent a regrouping of the demonstrators.⁷

Many people were arrested on the spot while in the evening the police raided the hospitals and arrested the people who were being treated for dog-bite wounds. Officials of the South African Students' Organisation, Black People's Convention, Theatre Council of Natal and the Black Allied Workers' Union were arrested in their offices that evening. This turned out to be a curtainraiser to a country-wide swoop by Secret Police on all Black Organisations, in which over forty young men and women were detained under the General Laws Amendment Act.

The Act empowers the police to detain a person for not longer than fourteen days. When the fourteen days expired, the Secret Police announced that the detainees would now be held under section 6(1) of the Terrorism Act, which allows for indefinite detention incommunicado.

Eighteen of those arrested on the first day were charged under the Riotous Assemblies Act and released on varied bail of R30 and R50 each. Their court hearing was remanded twice with the bail still standing. According to the bail conditions they were not supposed to enter the premises of the South African Students' Organisation, the Black People's Convention and the Black Allied Workers' Union and they were not supposed to leave Durban without a special permit.

Of this group, two young women, Pat Bolton and Zeeman and a male, Peter Bolton were Whites. Charges against Peter Bolton were later withdrawn, and an anonymous person paid up the R30 bail for Pat Bolton; and their passports which had been taken, were returned to them.

The trial of the rest of these people was remanded on March 3 to the August 18, 1975. Included in the accused was Mrs. Vino Cooper, wife of Sathasivan Cooper, banned former Public Relations Officer of the Black People's Convention. Mrs. Cooper had been arrested on the evening of September 25 in her flat, together with her husband. They were held under the Terrorism Act together with several others. After 43 days of detention, on November 7, 1974, Vino Cooper was released, and promptly charged under the Riotous Assemblies Act.

The Minister of Police, and Justice, Mr. Jimmy Kruger was quoted by a few South African Newspapers early in December as saying that the detained people would appear in court "in a few weeks time". It was only in February 1975 that 12 people were brought to trial. They appeared on February 7, charged under the Terrorism Act. The case was remanded to March 12, on which date it was remanded again to April 21.

The accused were:

Sathasivan "Saths" Cooper, 24, married, ex-Public Relations Officer of the Black People's Convention. Banned under Section 9(1) and 10(Ia) of the Suppression of Communism Act of 1950.

Justice Edmund Lindane Muntu Myeza: 24, unmarried ex-President of SASO and Secretary-General of the Organisation at the time of detention.

Mosiua Gerald Patrick Lekota: 28, got married while in detention. Permanent Organiser of SASO since 1973.

Maitshwe Nchaube Aubrey Mokoape: 30, married with two daughters. Founder member of BPC and SASO, banned under Section 9(1) of Suppression of Communism Act. He was working in King Edward Hospital in Durban as a Medical Officer, until his detention.

Nkwenkwe Vincent Nkomo: 24, unmarried, National Organiser of BPC at the time of his arrest.

Pandelani Jeremiah Nefolovhodwe: 25, unmarried, National President of SASO and final year B.Sc. student at the University of the North at the time of his arrest.

Gilbert Kaborane "Kaunda" Sedibe: 24, unmarried, President of the University of the North Students' Representative Council.

Rubin Hare: 20, unmarried, vice-President of the South African Students' Organisation at the time of his arrest.

Strinivasa Rajoo Moodley: 28, married with one son. Banned under Section 9(1) and 10(Ia) of the Suppression of Communism Act. Former SASO publications Director and Editor of the SASO newsletter.

Sadecque Variava: 25, SASO member and leader of the People's Experimental Theatre, a drama group based in Johannesburg.

Absolom Zithulele Cindi: 25, unmarried, Secretary-General of BPC when arrested.

Sulayman Ahmed "Solly" Ismael: 27, Active member of both the People's Experimental Theatre and SASO.

When they appeared for the second remand on March 12, there were 13 accused after an additional man, Mr. Sivalingham Moodley had been added to the original twelve. Mr. Moodley is brother to accused number 9 and a member of the Theatre Council of Natal (Tecon).

The charge sheet with annexures covered 104 pages, before Mr. Sivalingham Moodley's name was included. Among the allegations that some or all of the accused faced were that they had during the period between 1968 and October 1974, conspired with one another to:

- Transform the State by unconstitutional revolutionary and/or violent means.
- Condition the African, Indian and Coloured population groups of the Republic of South Africa for violent revolution.

- Create and foster feelings of racial hatred, hostility and antipathy by Blacks towards Whites and/or the State.
- Denigrate Whites and represent them as inhuman oppressors of Blacks, and to induce, persuade and pressurize Blacks to totally reject the white man and his way of life, and to defy him.
- Eulogise and encourage emulation of persons who have been convicted in the Republic of the crimes of terrorism, subversion, sabotage, and of offences under the Suppression of Communism Act No. 44 of 1950.
- Portray historical events in such a way as to cause, encourage or further feelings of hostility, resentment or hatred by Blacks towards Whites.
- Make, produce, publish or distribute subversive and anti-White utterances, writings, poems, plays and/or dramas.
- Organise and hold subversive and anti-White rallies and/or gatherings.
- Discourage, hamper, deter or prevent foreign investments in the economy of the Republic, and to call upon foreign investors to disengage themselves from the South African economy, or sections of the said economy.
- Discourage, hamper and/or deter foreign organisations and/or Governments from recognising and/or co-operating with the Republic.

There were also alternative counts which were in some cases levelled severally at the accused. Amongst these were the following:—

- To organise, arrange, advertise and/or hold so-called pro-Frelimo Rallies at Durban and/or Turfloop and/or Johannesburg and/or Port Elizabeth;
- Confront, assail or set at defiance the authority of the State, the police and others established to maintain law and order;
- To provoke the police to use violence;
- To advertise, make known or suggest the efficacy of an armed struggle to transform the State and/or bring about political, social industrial and/or economic change into the Republic.

It was also alleged that whereas Sipho Buthelezi, at all relevant times a member of the Executive Committee of the Black People's Convention, in carrying on or furthering or endeavouring to further the business affairs or the interests of the Black People's Convention did, upon or about 31st January, 1973 and at or near Johannesburg, wrongly or unlawfully with intent to endanger the maintainance of law and order

in the Republic or any portion thereof, write or cause to be written letters to some fifteen persons and/or companies or organisations with investments in South Africa, and thereby did, or did attempt to discourage hamper, deter and/or prevent foreign investments in the economy of the Republic, and whereas the accused Sathasivan Cooper was at all relevant times a member of the same Executive Committee as Siphso Buthelezi, therefore by virtue of the provisions of Section 381(7) of Act No. 56 of 1955, Cooper is guilty of the offence of participating in terroristic activities. Mr. Siphso Buthelezi mentioned above, went into exile in 1974 and is believed to be in Botswana. He was banned under Section 9(1a) and 10(a) of the Suppression of Communism Act and was restricted to Newcastle in Natal.

All the Court appearances of the 13 supporters of the Black Consciousness Movement were marked with strong determination on the part of both the trialists and the Blacks who happened to be watching from the public gallery.

This was evidenced by a pattern followed since the February 7 appearance in the Pretoria Magistrate Court, when the accused started singing from the cells below the court-room, up the stairs until they got into the court-room. At the end of the song they bellowed "POWER—AMANDLA".⁸ The lyrics of the song were as follows:—

*"Asikhathali noma siyabotshwa
sizimisel' inkululeko.*

*Unzima lo mthwalo
ufuna sihlangene."*

*"We do not care even if they arrest us,
we are determined on liberation,
this burden is heavy
it demands unity."*

This pattern took an added dimension on March 12, when the trialists appeared again. They entered the overcrowded Supreme Court, singing loudly, their arms raised high, fists clenched in the Black Solidarity salute. When they turned to face the public gallery, the people stood up and joined the singing and most of them held up clenched fists.

After Mr. Justice Boshoff had left the bench, on this same day (March 12), having postponed the hearing to April 21, a fracas developed between the 13 trialists and the police, in which some blows were exchanged. The accused were leaning over the dock, to kiss, hug, shake hands or even touch relatives and friends from the public gallery. The police were in turn trying to force the trialists down the stairs and away from the hand rail next to which the crowds of friends had gathered.

In the course of the mêlée, there was general shouting and yelling by

both the trialists and the swarming black crowd. After the commotion, hundreds of black people gathered outside the Palace of Justice and milled around for some time before dispersing without any further incidents.⁹

It was reported in the *Daily Dispatch* of the 14th March, 1975 that after the trading of punches between the police and the trialists, and the subsequent forcing down the stairs of the trialists by the police, the former were again assaulted by the police, and as Dr. Nchaupe Aubrey Mokoape, tried to speak to General Mike Geldenhuys, the head of the Security Police who was also in the cells, about the assaults, he was pushed away by a security policeman.

It was also reported that the black trialists were intending to lay charges against at least three security policemen for allegedly assaulting them in Pretoria Magistrates Court shortly before their appearance on February 7 and during their detention at the Pretoria Central Prison. Mrs. Vino Cooper, wife of accused Sathasivan Cooper, who visited her husband in prison said the detainees claimed they had been assaulted just before their appearance of February 7, after an argument between a security policeman and Rubin Hare, one of the accused.

Reference was made in the paragraph above, to assaults of the detainees by the security police at the Pretoria Central Prison. According to the SASO pamphlet entitled the Frelimo Rally—Facts and an Evaluation, published in April, Mr. Shun Chetty of Durban, acting for some detainees, brought an application for an interdict against the Minister of Police and the Commissioner of the South African Police. The circumstances surrounding the application were reported as follows:—

On the 22nd October 1974, Mr. S. Chetty acting for some detainees, was permitted to see Sathasivan Cooper, to discuss a pending appeal by Mr. Cooper against a conviction on a previous charge of assaulting a security policeman in Durban. During the two and half hours that they were together with two cops monitoring, Mr. Chetty gathered that there were “many detainees who were being brutally assaulted by members of Special Branch”. Consequently Mr. Chetty drew up an affidavit supported by five affidavits drawn up by relatives of some detainees, and sought an interdict restraining the security police from assaulting, interrogating in any manner other than prescribed by law, employing any undue or unlawful pressure and subjecting any form of unlawful duress on the detainees. In addition he requested that someone entitled in terms of sub-section 6 or 7 of section 6 of the Terrorism Act and approved by the court, be allowed to take affidavits from the five people allegedly assaulted, and that pending the affidavits, an interim interdict be issued against further assaults pending the final judgment on the application.

Mr. Chetty's main affidavit was supported by five affidavits submitted by:

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|---------------------|---|--|
| Zwelibanzi Mabandla | — | father of Lindelwe Mabandla |
| Alimal Cooper | — | mother of Saths and Revabalan Cooper |
| Ntomenhle Shange | — | Fiancee of Mosiuoa Lekota (later married in the Prison Chapel early in 1975) |
| Jacob Myeza | — | Father to Muntu Justice Myeza |
| Julia Myeza | — | Mother to Muntu Justice Myeza |

In defence the Minister of Police and the Commissioner of Police produced 142 pages of affidavits from 29 persons—mainly employees of the State working within the prison where the detainees were being held. The affidavits denied any improper behaviour on the part of the police. No evidence could be taken from the detainees themselves, in support of their case. Mr. Justice Trengrove in giving judgment stated, "The position at present is that there are very serious doubts on allegations of ill-treatment of the detainees".

"The Terrorism Act specifically states that no court of law may pronounce upon the validity of any detention or interrogation. Prisoners are at the sole mercy of the Police and the Minister of Justice", observed a SASO commentary in the special bulletin on the Frelimo Rally and its aftermath. The commentary went on as follows:

"Ignored totally too, are the effects due to prolonged detention in solitary confinement coupled with heavy interrogation. While detainees may not show any overt physical signs of injury (which is what the court is more interested in when pronouncing on whether detainees are being ill-treated or not), the less overt psycho-emotional effects due to such detention, have been known to take a huge toll of the victimised detainees, their friends, families and the broader communities they are part and parcel of.

It is no wonder then, that Blacks view with cynicism, such talk about 'change within six months', and other such promises. So long as our dignity is trodden upon...so long as we are subjected to humiliation...there can be no trust nor peace between us and the oppressor".

Even before the actual trial of the 13 men could start, the defence, in an unprecedented move, demanded that the State should furnish further and better particulars on the charges against the detainees. Mr. C. Rees, SC, the Deputy Attorney-General of the Transvaal, leading the State case, argued that the State had "gone out of its way" to give the defence all the documents that it "reasonably required", although it was not obliged to supply these documents.¹⁰

Mr. Rees further stated that the State would rely on the whole course

of conduct of the detainees and the organisations to which they belonged, as well as documents taken from these organisations to prove that the detainees had adhered to a conspiracy to overthrow the State by violent and unconstitutional means.

“We believe that all the facts on which our case is based are set out in the five volumes of documents and information supplied to the defence by us”, he said. He maintained that in a conspiracy case, by its very nature, the charges could not be set out with crystal clarity.¹¹

Mr. Justice Boshoff, echoing the defence request, said that the defence needed to know which particular facts the State would rely on to prove each aspect of the charges, and to what extent the State would rely on the documents provided.

Mr. Rees advanced that the detainees had created and fostered a spirit of aggression against the State and this aggression was evidenced even by their behaviour in court. After an objection by the senior counsel for the defence, the remark had to be withdrawn. Mr. Rees was referring to the previous court-room skirmishes between the police and the trialists; as well as the occasion of the 21st April 1975, when the trialists, clad in black T-shirts with letters BPC on the chests, and black skull-caps came into the court with their customary singing. Facing the public gallery they continued singing until they ended with the clenched fist Black Solidarity salute, accompanied by a roar of “Power”. Black spectators from the public gallery responded to the salute.¹²

On this day, Mr. Justice Irving Steyn, who was acting for Judge Boshoff, got into the court-room before the accused filed in, which was unusual. It is reported that he sat quietly as the singing went on uninterrupted. After the event Mr. C. Rees, SC, stood up and claimed that the thirteen, together with the members of the public who joined them, had acted in contempt of the court, by singing in the presence of the judge. He further suggested that the police should investigate the possibility of charging the trialists and the spectators.

Judge Steyn agreed with Mr. Rees that what had happened had been in contempt of court, “however, anything I said during the singing would have been to no avail”, he was quoted as having said. Defending the incident, Mr. Roy Allaway, SC for the defence said the court had not been quorate when the accused were coming in, and that therefore there could be no case of contempt of court. He also suggested that the trialists could not have been aware of the judge’s presence as they came in.¹³

At the end of the hearing, Mr. Justice Steyn, addressing Mr. Allaway, said that the accused had had their chance to demonstrate, and should not take the risk of a further demonstration”. Subsequent to the event, as

the judge adjourned the court to May, 5, the doors were locked and the public were kept inside for twenty minutes as the police took names and addresses of about forty of the spectators. The forty were alleged to have participated in the court-room singing and saluting.

Mr. David Soggot, a Johannesburg advocate in the defence team, apparently annoyed by the police action against the spectators in the public gallery, approached senior police officers at the court to complain against the imprisonment of members of the public. He later said: "I have never known anything like this in a South African court. The police had no right to detain them".¹⁴

The argument revolving round the defence complaint that the indictment was not enough to show what case they had to meet, and that as it stood, it was embarrassing and prejudicial to the preparation of a proper defence, went on for nearly three days. The proceedings were occasionally spiced by the odd interchange between counsel. It was reported that at one point, Mr. Roy Allaway, SC, leading defence counsel, turned to Mr. Rees SC, the State leader, and said: "Will you please keep quiet". The thirteen trialists apparently enjoyed these outbreaks of repartee and are reported to have laughed uninhibitedly.

Conducting the defence argument, Mr. Allaway said that if an order for further particulars was granted and not complied with, the defence wanted the indictment quashed. He maintained that the indictment did not say when the conspiracy was formed or how each of the accused had allegedly participated.

Referring to the youngest of the accused, Mr. Rubin Hare, 20, Mr. Allaway said that if the alleged conspiracy was true, then Mr. Hare would have been 14 years old when he entered it.

Mr. Justice Boshoff, after some ten days adjournment of the hearing, announced on May 16th, in a 44 page document, the judgment on the question of whether or not the State should furnish further particulars to the defence. In his judgment, the judge granted an order instructing the State to supply further details on eight of the twenty sections of the application. He also granted the defence leave to appeal for the quashing of the indictments against the accused men, should the State fail to deliver the particulars ordered. The judge also added that when details were requested, "particular care should be taken to furnish particulars in a way that would clarify the charges".¹⁵

The Pretoria Supreme Court sat briefly on the 21st May, to adjourn to the 9th June. It was expected that the State would furnish the required particulars by May 22. Mr. Shun Chetty, the instructing attorney said in an interview that if the defence received the details on May 22, they would be ready to go ahead on June 9. He said it was unlikely that the State would not comply with the order. "That would be self-defeating", he said.

It was only when June 9 came that Mr. Chetty realised that his expectations did not hold true. It appeared that the State had misunderstood the order given by the Court regarding further particulars. In its supply of the required details, the State counsel Mr. C. Rees said that he had been instructed by the court order to supply particulars on the extent of participation by the individual detainees belonging to the Black People's Convention, the South African Students' Organisation, the Theatre Council of Natal and the People's Experimental Theatre. The judge, apparently angry replied, "I would never have ordered such a silly thing". Nevertheless, Mr. Rees did present the further particulars that he had prepared.¹⁶ During his submission, Mr. Justice Boshoff frequently interrupted the argument to ask how certain particulars supplied by the State threw any light on the indictment. "Are the defence just interested, or are they facing charges under the Terrorism Act? Aren't these particulars just confusing the whole case?" he asked at one stage.¹⁷

Mr. Rees insisted that he had supplied adequate particulars whereupon the Judge asked, "How do these particulars explain this mass of information that neither I nor the defence can understand?" He added that the case against the 13 revolved around the manner in which the detainees had allegedly joined and participated in a conspiracy against the State. He said that a Black People's Convention meeting mentioned in Mr. Rees' argument at which "mundane matters" had been discussed did not relate to the charges.

Judge Boshoff eventually adjourned the court until June 23, saying that he would try to set out his reasons for regarding the indictment against the thirteen as vague.

For the duration of the tedious legal argument, tension between counsel was always notable. At one stage, when the judge was considering throwing out the indictment and giving the State a chance to prepare a new one, the State counsel, Mr. Rees, claimed that the situation had been brought about by the defence's attitude. He claimed that the defence was playing for time because they did not want the actual trial to start before the customary July recess. Mr. Allaway said that the defence deeply resented the State claim that they were playing for time, particularly as the accused had been in jail for many months and had been refused bail. A postponement would only lengthen their detention.¹⁸

The Attorney-General for the Transvaal, Dr. Percy Yutar had rejected a bail application by the accused. The application was not brought before court because, under section 6 of the Terrorism Act, a court could not order the release of detainees being held under the Act, and might not grant bail.¹⁹

On June 23, the Pretoria Supreme Court sat to hear Judge Boshoff's judgment on the defence application for the quashing of indictments against the 13 accused detainees. Before the judge could lay down his decision, the Transvaal Deputy Attorney-General, Mr. Rees, in a dramatic unexpected move told the court that he was withdrawing all charges against Mr. Sivalingham Moodley and Mr. Sooly Ismael; and that he would be withdrawing the present indictment against the remaining eleven detainees as soon as he had drafted a new indictment. He further announced that he intended bringing a joint indictment against nine of the accused, and that he would bring separate charges against Mr. Rubin Hare and Mr. Sadecque Variava. If further charges were later laid against the two released accused, they would be brought in a different court, he said.²⁰

Mr. Rees said that the defence had asked 8350 questions on the 11 page indictment, and that as a result things were getting confused. He made most of his submission in Afrikaans, and only summed up in English at the request of Mr. Roy Allaway. There was a marked reaction from the large crowd in the public gallery and from the detainees.

As Mr. Justice Boshoff adjourned the court the detainees stood with the crowd and chanted the National Anthem "Nkosi Sikelela i-Afrika" (God Bless Africa). Thereafter, pushing aside policemen, the remaining detainees embraced and congratulated their former co-accused.²¹ The two freed detainees, surrounded by a wildly excited crowd of friends, relatives and supporters of the Black Consciousness Movement—most of them weeping openly—left the Palace of Justice at the head of waves of clenched fists of the Black Unity salute.

Minutes after the whole excitement was over, Sivalingham Moodley returned to the Pretoria Central Prison to visit "the guys I spent every minute of the last five months with".²²

The New Charges and the Second Phase of the Trial

On the 3rd of July 1975, nine of the remaining accused detainees appeared in the Pretoria Magistrate's Court to face new charges under the Terrorism Act of 1967. The charges were similar to the previous ones, and in a later interview, the instructing attorney for the defence, Mr. Shun Chetty described them as "even more vague". The case was remanded to August 4.

On the same day separate charges were brought against Rubin Hare and Sadecque Variava. Both their cases were tentatively remanded to the 10th and the 4th of September respectively. Mr. Chetty reported that it had actually been mentioned that the hearings of the two cases would only start after the main case against the nine had been concluded.

People Detained under the Terrorism Act

According to reports issued by the South African Students' Organisation and the Programme for Social Change of the Christian Institute, there were 50 persons who were in detention by March 5. The following are the names of the detainees and the dates of their detention:

Name	Detention Date	Name	Detention Date
Lindelwe Mabandla	25.9.74	Mzimkhulu Gwentshe	2.11.74
Haroon Aziz	25.9.74	Zithulele Cindi	7.11.74
Sathasivan Cooper	25.9.74	Drake Koka	7.11.74
Revabalan Cooper	25.9.74	A. Dundubele Mokoena	7.11.74
Ahmed Bawa	25.9.74	Thomas Manthata	7.11.74
Muntu Myeza	25.9.74	Rubin Hare	7.11.74
Yuzen Naidoo	25.9.74	Steven Carolus	7.11.74
Mosiona Lekota	25.9.74	Harold Dixon	7.11.74
Mashwabada Mayatula	25.9.74	Cyril Ramaphosa	
Menziwe Mbeo	26.9.74	Buma Bokwe	
Harry Singh	27.9.74	Solly Ismail	18.1.75
Brigitte Mabandla	28.9.74	Sadecque Variava	18.1.75
Mahlomela Skosana	7.10.74	Ben Louw	25.1.75
Nkwenkwe Nkomo	7.10.74	Sivalingham Moodley	29.1.75
Paul Tsotetsi	11.10.74	Monamodi Radebe	4.2.75
Strinivasa Moodley	11.10.74	Xola Nuse	4.2.75
Nchaupe Mokoape	11.10.74	Bernard Trevor Bloem	6.2.75
Ben Langa	11.10.74	Patrick MacGluwa	14.2.75
Mapetla Mohapi	11.10.74	Chris Goddard	14.2.75
Pumzile Majeke	11.10.74	Weizman Hamilton	15.2.75
Pandelani Nefolovhodwe	11.10.74	Johny Ramrock	15.2.75
Kaunda Sedibe	11.10.74	Hector Mbau	
Leteane Modisane	11.10.74	Raymond Burgers	18.2.75
Nyameko Pityana	11.10.74	Eric Molubi	20.2.75
Danile Landingwe	11.10.74	Molefe Phetoe	5.3.75

Speculation concerning the last eleven persons mentioned in the list above suggested that they could have been arrested for some other matter which had not yet come to light, and that there could be no connection between them and the former lot. There were also reports that they were being held in cells at John Vorster Square, and not at the Pretoria Central Prison, as was the case with the rest of the people detained.

Most of them belonged to AFRO, a movement which actively opposed the Coloured Representative Council during the time of the election campaign for this body.

It has been very difficult to assess the actual number of people who

were detained over this period. It could not be assumed that all cases of detained people were reported to any of the black national organisations, or to the press.

There were many reported cases of people detained by the Security Police for short periods ranging from 5 to 36 hours, for the purpose of interrogation. Below we list the names of people known to have been hauled in for short periods:

Maphiri Masekela	—Director of Women's Division for South African Council of Churches.
Sibongile Kubeka	—Head Office Secretary for SASO.
Christine Douts	—Western Cape SASO Regional Secretary.
Kessi Moodley	—Member of Theatre Council of Natal, and brother to Strini and Sivalingham
Kogila Perumal	—Member of Theatre Council of Natal.
Mandlenkosi Langa	—Member of National Youth Organisation and brother of Ben Langa.
Basil Lenkoe	—Member of South African Students' Movement. (a national high school student organisation).
Mathe Diseko	—Banned leader of National Youth Organisation.
Leonard Martin	—Leader of AFRO in Johannesburg.
Kenneth Clark	—Member of AFRO.
Inkie Carter	—Member of AFRO.
Saville Carter	—Member of AFRO.
Winston Carter	—Member of AFRO.

Most of the 13 people listed above were reported to have subsequently left their homes, and are believed to have left the country.

It came as a complete surprise to the Black Community when on March 20, three of the first detainees were released from Pretoria Central Prison. And the following day on the 21st, a fourth detainee was released. The names of the detainees were Lindelwe and his wife Brigette Mabandla, Paul Tsotetsi and Mzimkhulu Gwentshe of East London, who was released the following day.

The four released detainees were issued with documents which mentioned that they would possibly be issued with subpoenas to give evidence with regard to the current trial of the thirteen Terror Act trialists. The documents also stipulated that these people should report their addresses to the nearest police station as soon as they got to their homes, failure to observe the second condition would render them liable to a fine of R50 or one month's imprisonment.

The release of these people gave rise to speculation that they had guaranteed to give evidence against their accused colleagues. This speculation was crushed by a press statement made by Mrs. Mabandla

and printed in the *Rand Daily Mail* of March 22, two days after her release. The statement read thus:

Owing to the subsequent banning orders served on Mrs Mabandla on September 23rd 1975, her words have had to be deleted.

The South African Students' Organisation, later attacked the South African Government for the conditions under which the detainees were being released referring mainly to the reported possibility of subpoenas. The Students' Organisation said in a statement that this was an effort to cause disunity in the ranks of Black people and thereby disrupt and cast a stir on the integrity of the Black Consciousness Movement.²³

SASO referred to Mrs. Mabandla's post-detention press statement as the words that best capture and illustrate the spirit of the people released after being held incommunicado and in solitary confinement for such a long time.²⁴

On March 24 two more detainees, Nyameko Barney Pityana and Mapetla Mohapi were released; and on March 27 Menziwe Mbeo and Pumzile Majeke were also released. On April 2 another couple, John Issel and Revabalan Cooper were released; and the eleventh person, Steve Carolus, came out on the 10th of April.

It was not until June 25, two days after the charges against two of the 13 trialists were unconditionally withdrawn, that more detainees were released. The released detainees were Aubrey Dundubele Mokoena, Ben Louw, Thomas Madikwe Manthata, Jerry Leteane Modisane and Haroon Aziz. Significantly this was 'Uhuru day' for independent Mozambique under Frelimo guidance. The advent of the Frelimo administration in September 1974 had set the ball rolling for the State case against the protagonists of the Black Consciousness Movement in South Africa. The event of the planned pro-Frelimo rallies gave the Government reason to investigate the movement with regard to "terrorism".

On June 27, Drake Koka, another detainee, was released from prison, which brought the overall number of freed long-term detainees to 19, including those against whom charges had already been laid. Discounting the 11 remaining trialists, the number of known detainees was therefore reduced to 20.

As has been mentioned above, eleven of this remaining twenty was believed to be held at John Vorster Square for some other possible case other than the currently known one. It could therefore be said that there were nine people believed to be detained in connection with the

Terrorism Act trial which was running at the Palace of Justice in Pretoria.

The ninth detainee, Buma Bokwe, reportedly from Kokstad seemed to be completely unknown to the Black National Youth Organisation (NAYO), the South African Students' Organisation (SASO) and the South African Students' Movement (SASM). Reports of his detention were all from newspaper sources.

Reactions to the Detentions and Trial

The detention of so many people by the Security Police, the subsequent charging of some of them under the enormous Terrorism Act caused quite a remarkable stir in both the Black and White communities in South Africa, as well as in the international community. Below is given a brief account of some of the reactions manifested and expressed by the said communities during the detention period.

Black Reactions

The series of arrests and detentions mostly affected organisations which subscribed to the Black Consciousness Movement. The smooth running of these organisations was disturbed by the abrupt removal of leadership and administrative material.

The leadership crisis therefore brought about a moment of uncertainty. This was especially enhanced by the month-long ban on all SASO and BPC meetings, which made it difficult for the membership to reorganise themselves.

Analysing the whole situation, a SASO spokesman wrote, "Their main hope (the powers that be), with the Frelimo Rally being used as an excuse, appears to be to crush SASO, BPC, BAWU and the other Black Consciousness organisations. By bleeding our organisations of effective leadership they assume that the Black Movement will die a natural death. Perhaps their idea is that the ridiculous show of force at Curries Fountain will frighten people into total inactivity. Or maybe, it was an assurance to the white electorate that they have the situation "well under control...."²⁵

During the first few weeks of the emergency, support for the organisations was well demonstrated by the big numbers of volunteers who rallied to all the offices, "to keep the fires burning", as one student put it at the SASO head office. The remaining black leadership kept constant with families of the detained, feeding them with whatever information was available on the situation of the detainees.

Interim committees were set up to take orderly care of the running of the movement. The newly appointed acting National President of SASO the Rev. Gwebelentlanzi Mposelwa appealed to all Black campuses to stand firm and not fear to continue their work.

Approximately 700 Black women signed a petition to the Prime

Minister and the Minister of Justice, Police and Prisons, condemning the detentions and calling for immediate release of the detainees. A copy of the petition was sent to the State President.

The petition was delivered at the offices of the Ministers concerned in Pretoria by a delegation of 8 women on the 19th of November, 1974. They were not allowed to see any of the Ministers when they arrived.

Some Black women organised picketing at St. Emmanuel's Cathedral and the Methodist Church at Lorne Street in Durban over the weekends of 11th-12th and 17th-18th January respectively. Their placards were highlighting the irony of the South African detente exercise with the rest of Africa and the promises of change "within six months" from the Prime Minister, in the light of the detentions.²⁶

Emergency fund-raising committees were set up in the major cities of the country which raised money for possible bail of the detainees, when they had eventually been charged. Some of the money was used to take care of desperate cases of financial embarrassment as a result of some main bread winners having been detained. Referring to this kind of support, the Secretary General of the South African Students' Organisation Mr. Thami Zani observed: "This demonstrates the very basis of blackness. I cannot claim that all these people who have supported us, subscribed to every letter of our policy. This proves that Black Consciousness is not just a political concept, but a way of life".

Black support was highly in evidence when thirteen of the detainees were eventually brought to court in Pretoria. The large numbers of black people who crowded the court-room, and the even larger numbers who waited outside while the proceedings went on was a further demonstration of solidarity.

Voices of concern over the detentions also came from the leaders of the two major parties participating in the Coloured Representative Council, the Federal and the Labour Parties, who appealed to the Government to release or charge the detainees. Similar appeals were made by Bantustan leaders like Chief Gatsha Buthelezi of KwaZulu and the leaders of the Ciskei opposition party, the Ciskei National Party, whose spokesman expressed sympathy with the Black Consciousness Movement in their trouble with the Government. The South African Indian Council expressed similar feelings.

White Reactions

A snap debate on the detention was called by the Progressive Party MP, Helen Suzman, on the 11th March 1975. During the debate she strongly criticized the South African Government for applying double standards in that whereas it had pressurised the Rhodesian Government to bring Rev. Ndabaningi Sithole of the Zimbabwe African

National Union to an open court, it was not prepared to bring the SASO and BPC detainees to court.

In an article captioned, "If Sithole was in South Africa", the *Sunday Times* of March 16, 1975 described the words used by the Minister of Police in the House of Assembly when he offered reasons for the continued detention, as speaking "in lurid terms".

The Minister, Mr. Kruger had said: "Apart from terrorism on the borders, there is also terrorism of the spirit. There are terrorists in South Africa who walk in the dark. I know we have no choice in the matter and that we are in the midst of a war".

Reacting to this statement the *Sunday Times* observed that it contrasted strikingly with the official Government stance that South Africa was an oasis of stability in a world of turmoil.

A national white women's organisation called the Black Sash organised picket protests in Jan Smuts Avenue, one of Johannesburg's main artery routes. Their placards mainly condemned the detentions and called for the detainees to be either charged or released.²⁷

On November 10, 1974, a broad cross-section of church leaders, and church organisations appealed to the Prime Minister and the Minister of Justice and Police to bring detainees to trial immediately. Especially emphasised was the concern over the rumour that the detainees were being ill-treated by the Secret Police. The statement submitted read: "While it is not within the competence of the churches and organisations to pronounce on this, we wish to note that rumours such as these would not be given credence if the normal processes of law were followed in that persons would be brought to trial speedily".²⁸

The white National Union of South African Students (NUSAS) made a statement condemning the incommunicado detentions. They stressed that the call should not be "charge or release", but just "release political detainees".

On the United Nations Human Rights day, 8th December 1974, meetings were held in three major centres in South Africa, highlighting the plight of the detainees.

International Reactions

Many organisations in various countries of the world severally condemned the detentions in South Africa. Telegrams of solidarity were sent to the South African black organisations concerned, by sympathetic groups and individuals.

The anti-Apartheid Committee at the United Nations appealed to all Governments to condemn the trial of the 13 detainees who were charged. The British based organisation called "Southern Africa, the Imprisoned Society" (SATIS), spearheaded by the British Anti-

Apartheid Organisation, organised picketing in London's Trafalgar Square on February 12, 1975. A hundred placard-carrying people picketed for about an hour, calling for the release of the detained. Further pickets were organised in seventeen other centres in Britain viz. Manchester, Newcastle, Teeside, Coventry, Nottingham, Glasgow, Birmingham Leeds, Exeter, Southampton, Cheltenham, Edinburgh, Aberdeen, Cardiff, Swansea, Aberystwyth and Bangor.²⁹

A major demonstration was organised in London, just outside South Africa House. This demonstration was joined by some seven Labour M.P.'s, and letters of support were sent to the demonstrators by another six Labour M.P.'s, as well as the Liberal Party Chief-Whip, Mr. David Steele.³⁰

Mr. Frank Ferrari, vice-president of the AFRO-AMERICAN INSTITUTE, expressed the importance of international observers to the trial of the 13 charged detainees. He further stated that he was "horrified by the way people can be incarcerated without families, society or the press being given information".

Representatives of some Western embassies, notably Australian, Canadian, British, Dutch and American, kept attending the court hearings as observers.

The proceedings on the 5th of May, were marked by the presence of Mr. John Archer, Q.C., representing the International Commission of Jurists; and Mr. Mike Peay, director of the African Legal Assistance Project of the Washington based Committee for Civil Rights under the Law.³¹

THE CLARENCE HAMILTON CASE

On May 31, 1974, members of the Secret Police from John Vorster Square arrested an 18 year-old matric student at the Coronation High School in connection with a pamphlet he had printed and distributed, urging the students, teachers and parents not to celebrate Republic Day, which falls on that date every year.

"If you are going to celebrate this day, you are going to celebrate the umpteenth year in slavery;" the pamphlet said.

It also posed questions to students: "Are you satisfied with an education that hardly suits the needs of a common peasant?"

It ended by saying: "We are fighting for our rights as citizens and indigenous natives of this country".

When the police searched Hamilton's home they found a book containing poems written by him and two books, *The Year of the Young Rebel* and *Social Change*.

They also found formulae for making hand grenades and petrol bombs. The police also arrested two friends of Hamilton's, Mr. Saville Carter and Mr. John Norman. All three were held under the General Laws Amendment Act, but Carter and Norman were released after two weeks. Hamilton was charged under the Suppression of Communism Act. He appeared in the Johannesburg Magistrate's Court on June, 14, 1974 after being incommunicado for 15 days, facing two charges under the Suppression of Communism Act.

The first charge was that he possessed formulae to make explosives and a petrol bomb. The other charge related to the drafting, publishing and/or printing of a pamphlet aimed at encouraging feelings of hostility between the white and black races and at bringing about change in South Africa by means of violence.

Mr. Hamilton was represented by Mr. Mike Lazarus. No evidence was led and he was released on R250 bail. He was ordered to report to the Orlando Police station daily. At his later appearance, Hamilton's lawyer, Mr. Mike Lazarus applied for the conditions of bail to be changed. Mr. Hamilton was then ordered to report at the Orlando Police station every Monday.³²

When the hearing resumed, the State called Mr. J. C. van der Merwe, head of the Department of the Political Science at the Rand Afrikaans University, as an expert witness to give evidence that the pamphlet tended to further the aims of communism. Mr. Hamilton was now before Mr. W. R. Krugel in the Johannesburg Regional Court.³³

Mr. Lazarus of the defence cross-examined Mr. van der Merwe at length about the contents of the pamphlet. The latter said that in the symbolic connection and in the context of the political situation there was warfare between Black and White in South Africa. This situation existed in spite of the fact that Blacks were fighting for South Africa on the border.³⁴

He agreed with Mr. Lazarus that strong language was often used in politics, but said that any statement should be seen in its context.

Mr. Hamilton was found guilty on both charges under the Suppression of Communism Act on October 18. In summing up, the magistrate, Mr. Krugel said that anyone who read the books and wrote the poems that Mr. Hamilton did, could never plead ignorance. He found that a poem written by Hamilton was intended as a literal call for violence.³⁵

Mr. Krugel said that he had studied the pamphlet carefully and found that the analysis made by Mr. van der Merwe coincided in all respects with the analysis of the court.

Hamilton was released and the R350 bail allowed to stand, pending the sentence which was set for October 29.

On the day of the sentence Mr. Hamilton failed to appear in court and a warrant for his arrest was issued by the magistrate.

He was later reported to have skipped to neighbouring Botswana. Interviewed by a reporter of a South African magazine he said that he had run away because he realised that he would have spent his most active years of life in jail after which he would most certainly be slammed with restriction orders.³⁶

The Thamang David Seleoane—Wezile Ngalo Terror Trial

Two young Bloemfontein men, Thamang David Seleoane 20, and Wezile Ngalo 24, were brought to the Bloemfontein Supreme Court on June with charges under the Terrorism Act and alternative charges under the Suppression of Communism Act.

It was alleged that between March 3 and 6, 1975, they had both gone to Gaborone in Botswana, to undergo military training which could be useful to a person wishing to endanger the maintainance of law and order in South Africa. On the alternative charge, both accused were alleged to have taken steps with the intention of furthering the aims of a banned organisation, the African National Congress.³⁷

Evidence was given that the accused, together with their fellow members of a Bloemfontein African soccer team, were used to listening to Radio Freedom—the Voice of the African National Congress—broadcasting from the Zambian capital of Lusaka, during their sport training periods. It was apparently from the radio that they had gathered that they could go to Zambia for free education and military training.

Seleoane was represented by Mr. S. A. Visser and Ngalo was represented by Mr. S. P. B. Hancke. Apparently the accused had no legal representatives of their own, and the two gentlemen who represented them were appointed by the State. Reflecting on this report, the National Organiser of the Black People's Convention, Mr. Kenny Rachidi expressed concern over the matter. He said that the two accused Blacks were not members of his organisation, but it would still have been the duty of a national movement to see to it that cases of this nature were given the necessary attention; and the regrettable idea of having counsel appointed for trialists was an unforgivable slip in the alertness of the movement.

The case for the State was led by the Deputy Attorney-General for the Orange Free State, Mr. A. R. Erasmus. On the bench was Mr. Justice Smuts, with two assessors.

Both the accused pleaded not guilty to all charges brought against them; but Seleoane later pleaded guilty to the main charge, apparently on the advice of his counsel.

They were declared guilty by Judge Smuts on June 13. After the verdict was given, there was a dispute over Thamang Seleoane's age. His sister gave evidence that he was eighteen, but his mother said he

was nineteen. Sentence had to be postponed till the following day, so that Seleokane could undergo radiological tests to determine his age.³⁸

Thamang Seleokane and Wezile Ngalo were each sentenced to 5 years imprisonment, which is the minimum prescribed by the Terrorism Act.

TRIALS RELATING TO RESTRICTION ORDERS

The Strini Moodley Trial

Mr. Strinivasa Rajoo Moodley, former executive official of the South African Students Organisation (SASO) until he was served with banning orders on March 2, 1973 was brought to the Durban Regional Court in August 1974, charged with five counts of contravening the terms of his restriction orders.

He appeared before Mr. C. J. van Zijl, the magistrate and was represented by Mr. J. Didcott S. C. The State case was conducted by Mr. T. D. Reeds.

It was alleged that on February 18, 1974, Mr. Moodley had unlawfully attended a gathering of people, when publicity for a drama performed by the Theatre Council of Natal, of which he had been director until his banning, was discussed. It was further alleged that he had prepared a publicity pamphlet to be published for the drama production; and that he had visited the offices of two Black newspapers, *Graphic* and *The Leader*, in contravention of his restriction orders. He was also charged with receiving two guests and of attending a social gathering in his flat on the same evening of February 18.

On August 31, Mr. Moodley was acquitted on three of the counts mentioned above, but he was found guilty of the last two of receiving visitors and attending a gathering at his home.

He was sentenced to seven days' imprisonment, conditionally suspended for one year. A few months later Mr Moodley was detained under the Section 6 of the Terrorism Act; and he later became one of the 13 detainees who stood trial before Mr. Justice Boshoff in the Pretoria Supreme Court at the Palace of Justice.³⁹

Barney Nyameko Pityana, 29

Nyameko Pityana lodged an appeal against his conviction and sentence by the Port Elizabeth Regional Court Magistrate, on five counts of violating the State's banning orders against him.

The Grahamstown Supreme Court acquitted him of three counts and endorsed the previous decision on two of the counts.

In July 1974 Nyameko was again charged for violating restriction orders. It was alleged that he had received visitors at his home on two occasions. The first count involved his younger brother Lizo, who

apparently was in the habit of popping in at Nyameko's house to bring a newspaper. The second count could not be substantiated by the State.

Pityana was found guilty on the one count where his brother was involved, and the second count was withdrawn by the State. He was sentenced to three months' imprisonment, suspended for three years.

He appealed against the sentence, and while the appeal result was due in December 1974, Nyameko was detained in October, under the Terrorism Act.

No sooner had he been released in March 1975, than he was once more brought to court. The December appeal result had only expressed sentiments in his favour, otherwise the sentence was not set aside. As a result of this the State decided to press for the previous suspended sentence to be effected. Pityana's attorneys put up a strong fight to what they regarded as an unfair onslaught on the person of their client. The hearing on the matter was remanded to July 31. He was represented by Mr. Somyalo of Port Elizabeth who occasionally briefed counsel. Nyameko Pityana was SASO Secretary-General until his banning in 1973.⁴⁰

Steve Bantu Biko, 29

As has been mentioned in earlier issues of *Black Review*, Biko, an executive employee of Black Community Programmes and a former President of SASO, was restricted to King William's Town as from 1973, banned under the Suppression of Communism Act.

In February 1974 he was charged with an infringement of his restriction orders on one main count and an alternative count. On the main count it was alleged that he had received visitors at his place of residence in that some students from the Alice Federal Theological Seminary together with a lecturer were found by security police in the house. Alternatively it was alleged that he had attended a social gathering of the same group on the same night.

The trial was concluded on May 7 and Biko was acquitted of the charges against him. He made his objection to the very laws that made it a crime for one to be visited and be in company of friends.⁴¹

Stanley Sabelo Ntwasa, 28

On March 29, 1974, Sabelo Ntwasa, the Black Theologian who had been convicted in September, 1973 on charges in terms of his banning orders, and sentenced to six months' imprisonment, appealed against the court decision.

In October, 1974 the Supreme Court ruled in favour of the State and Ntwasa who had previously had a similarly suspended sentence in 1972, was goaled at Leeuwkop prison until April 1975.

In June, Sabelo applied for a South African passport so that he could take up a theological scholarship in Britain. At the time of going to press, there had been no news of the passport being received.⁴²

RESTRICTION ORDERS—REVOKED AND RENEWED

Dr. Manas Buthelezi

The banning of Dr. Manas Buthelezi, the Natal regional director of the Christian Institute of Southern Africa, and a famous Black Theologian, in December 1973, brought world-wide protest about South African restriction laws. Pressures mounted for the release of Dr. Buthelezi especially from the Lutheran World Federation in Geneva and the Synod of the West German Evangelical Church.

Dr. Buthelezi, a Lutheran priest, had been the only African representative to the Lutheran Federation.⁴³ His restriction orders were lifted in May 1974, when the Minister of Justice said he had reviewed his case and decided it was no longer necessary to restrict Dr. Buthelezi.

During his banning, in February, he successfully brought an urgent application for an interdict against sale of the February 1 edition of a South African magazine *To the Point*. He brought the application against Dr. John Poorter, the editor of the magazine, African International Publishing Company Limited, owner and publisher of the magazine and the Central News Agency Limited, the distributor.⁴⁴

Dr. Buthelezi said the article concerned, which was headed: "The banning of Dr. Manas Buthelezi", had caused him irreparable harm. The editorial claimed that Dr. Buthelezi returned from an overseas trip in 1966 and made a speech in Zululand, during which he said he had heard with pleasure the assassination of Dr. Verwoerd, the South African Prime Minister.⁴⁵ Also he allegedly indicated that he would not object to a similar fate befalling other South African leaders.

In his affidavit to the Rand Supreme Court in Johannesburg, Dr. Buthelezi quoted the *To the Point* editorial article which he described as "false, malicious and defamatory".

He quoted: "In the present case the editor of this magazine has for some time known facts that made it abundantly clear that Dr. Buthelezi is no reconciler of men. We say this not because he has in the past strongly supported radical change in South Africa, but because he has advocated it by violence.

"No Western society is safe where such a view prevails. We believe the facts in our possession must also be known to the authorities and may form the basis of their action. Certainly Dr. Buthelezi took no special pains to conceal them. Our information comes from reliable

sources close to the banned man's own circle, or that part of it which understands his Black Theology preaching, but stops short of supporting blood-bath ideas.

"In a speech made at Flisaser, Mapululu (Zululand), he said that when he was out of the country in 1966 he had heard with pleasure of the Prime Minister Verwoerd's assassination, a method which had worked in America and must be successful here too.

"He said he wished John Vorster, along with others, might be killed through a bomb that would blow up Parliament. He regretted he had no personal means to kill these leaders, but would not hesitate to assassinate them if he had".⁴⁶

In this article, *To the Point* was suggesting that the State was justified in restricting Dr. Buthelezi. The irony of that story was not only proved when the Rand Supreme Court ruled in his favour in February, but was also proved further when the ban was rescinded—May, within 6 months of imposition.

In an editorial, the *Daily News* of May 29, 1974 taunted any possible suggestion that Manas Buthelezi could have been a revolutionary communist who had just changed his mind in 6 months. "It is hardly possible that in six months the lion has turned into a lamb. In other words it looks as if the Minister acting in good faith made a horrible mistake in the first place", read the editorial in an obvious reference to the Minister of Justice Mr. Kruger's earlier statement that: "Before a person is banned, I measure his actions against the requirements of the Act and I take great pains in making certain that the information is correct. After that, I make a decision. I am bona fide when I ban a person. My actions are not male fide".⁴⁷

Mr. Kruger had in March 1974 been quoted by several newspapers as having said that it was the State's task to keep its finger on those bent on undermining South Africa.⁴⁸

Explaining why he thought it was not wise to bring suspects to court he said that by bringing some "pipsqueaks" to court, agents could be exposed. "We must build our men into the underground organization, and cannot allow them to appear in an open court," he said. "For then they would be exposed and their purpose nullified".⁴⁹

It was the second occasion that a South African Minister of Justice had revealed reasons behind bannings in one year. Only the previous year, when the "SASO 8" were banned in March 1973, Kruger's predecessor, Mr. P. C. Pelsler had said in Parliament that he would never have allowed banned people to plead their case in court. He felt that this would be offering them a platform.

When his banning order was lifted, Manas Buthelezi said, "My banning order has not been typical in the sense that I have many friends all round the world who wrote to me and supported me, but I

think of the many banned people who do not have these advantages. I feel all the more that action must be taken to relieve their plight.”⁵⁰

The Reverends Qambela and Philip

In July 1974 it was reported that two priests, the Rev. Hamilton Liso Qambela (36) and the Rev. Reuben Philip (27) both, like Rev. Manas Buthelezi, banned under section 9(1) of the Suppression of Communism Act, were unbanned. Rev. Qambela, formerly vice-president of the South African Students' Organisation, became acting-president when the SASO President, Henry Isaacs, was banned. At the time Qambela was also President of the Students' Representative Council of the Federal Theological Seminary in Alice.

Mr. Qambela, a Methodist minister, had applied to the magistrate at Alice for clarification on his rights to act as a priest, and not for lifting of his banning order. He regarded the lifting of the ban as a “great surprise”.⁵¹ Rev. Reuben Philip, an Anglican priest, was SASO vice-president and International Relations Officer in 1972 when he was a student at the Federal Theological Seminary. The lifting of his restriction orders came as a complete surprise to him and the Black Consciousness movement as a whole.⁵²

This move on the part of the South African Government suggested a relaxation of oppression on church personnel, which was viewed by political observers as a direct result of the embarrassment caused by the Manas Buthelezi outcry.

Justice Moloto's Ban Ends

Mr. Justice Moloto, an outspoken critic of apartheid and former president of the University Christian Movement, who was banned and restricted to Mafeking for 3 years since 1971 was released on September 30, 1974. The term of his banning orders expired and was not renewed.⁵³

Mr. Moloto was the first person associated with the Black Consciousness movement, whose term of banning actually elapsed and was not renewed.

He has since settled in Durban where his wife, former SASO executive member Vuyelwa Mashalaba is practising as a medical officer.

Mr. Kruger, the Minister of Justice had announced in June 1974 that there were more people who had been unbanned by his department, although he was not prepared to disclose their names. “The banning or amelioration of banning conditions is entirely a private matter. The person concerned may disclose it if he wishes so”.

In a statement which appeared in the *Rand Daily Mail* of July 23, 1974, SASO said the lifting of the bannings indicated a “mounting confusion in white South African Government”. The statement further said that this act justified the belief that all banned Blacks were innocent.

Officers of the Black People's Convention could not speculate what people had been unbanned; but they suggested that it could be people who had been banned as soon as they were released from Robben Island.

It can be assumed that there are many people whose restriction orders were renewed. It was not possible to ascertain the names of most of them. The following are a few reported cases:

Mr. Mohammed Bhana: Former member of the Transvaal Indian Congress who was restricted to the magisterial area of Benoni. His restriction orders were renewed for another five years.

Mrs. Albertina Sisulu, 56: Wife of Robben Island prisoner, Walter Sisulu. She was subjected to a third term of restriction when her orders were renewed again in July 1974.⁵⁴

Mrs. Sisulu works at the Orlando Health Clinic as a sister. She is restricted to her home at Orlando West, Soweto between 6 p.m. and 6 a.m. Her son, Zwelakhe was quoted by the *Rand Daily Mail* as having condemned the ban imposed on his mother. "Here everyone who speaks against the Nationalist Government is called a communist. The recent cases of banning orders being lifted does not mean the Government has changed its attitude", said Zwelakhe.

Mr. Mangaliso Robert Sobukhwe, 50: Founder president of the Pan-Africanist Congress which was declared unlawful by the South African Government after the National disturbance of 1960.

Like most politically conscious Africans of his generation, he had been a member of the African National Congress Youth League, and he became its secretary-general. He broke with the ANC in 1958 to found the Pan-Africanist Congress.

He was arrested in 1960 for organising passive resistance against the South African pass laws, culminating in the Sharpeville debacle.

Mangaliso Sobukhwe refused to defend himself in court on the grounds that the laws under which he was tried had no validity since they were made by Whites only. He was subsequently sentenced to three years' imprisonment. On the expiration of his prison term he was further detained on Robben Island in terms of a special General Law Amendment Act provision which came to be known as the "Sobukhwe clause."

In 1969 he was released from Robben Island, but served with a five year banning order restricting him to Kimberley.⁵⁵ On May 30, 1974, the day on which the ban was due to expire, he was served with an extension order, imposing on him the same restriction and house arrest order for the next five years.⁵⁶

In 1975 he passed his final law examination and was admitted as an attorney in the Kimberley Supreme Court.

Mr. A. K. M. Docrat, 59: A former member of the Natal Indian Congress, Mr. Docrat had been subjected to one of the most severe restriction orders. He was first banned in 1964, and in 1969 a second five-year banning order was imposed together with a 22-hour-a-day house arrest.

After an appeal, his hours of freedom were extended to four, from 10.00 a.m. to 2.00 p.m. He earned his living as a second-hand book-seller, which he did during his active four hours of everyday.⁵⁷

On October 30, 1974, the expiring date of his second five year term, Mr. Docrat received another order signed by the Minister of Justice, and delivered to him by a captain of the Secret Police. The new banning order was in term of Section 9(1) of the Suppression of Communism Act, 1950, and did not restrict his movements to any particular magisterial district. It prohibited him from attending social and political gatherings and also preventing him from instructing, training or addressing pupils or students, for another two years. It is due to elapse in 1976.

Mr. Mzimkhulu Gwentshe, 29: On the 11th of July 1974, Gwentshe was handed with banning orders restricting him to the magisterial district of Mdantsane, which actually meant that he could not leave the township.

At the time of his banning he was an executive of the Border Youth Union, a regional wing of the National Youth Organisation (NAYO).

Mr. Gwentshe had been arrested in 1963 and charged with membership and furthering activities of the banned African National Congress. He was released from Robben Island in 1969 and was immediately slammed with banning orders. His restrictions were lifted in August 1971.

On November 2, 1974, during the nation wide post-Frelimo-Rally detentions, Gwentshe was held under Section 6 of the Terrorism Act of 1967, and taken to Pretoria Central Prison. He was released on March 21, 1975.

Soon after his release, Mr. Gwentshe was charged on two counts of violating his restriction orders. It was alleged that on October 1, 1974, he had in violation of his banning orders, failed to report at the Mda-ntsane Police station.

On the second count it was alleged that on October 13 contrary to the terms of his banning orders, he had without permission absented himself from the magisterial area of Mdantsane. The hearing was remanded to July 9, 1975.⁵⁸

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