PUBLIC SECTOR

GOVERNMENT - JUSTICE

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(252) Sowetan 12/2/88

FOCUS

Human rights declined in SA, says US

WASHINGTON — Human rights declined in South Africa during the past year, with the Government sanctioning vigilante groups and tightening curbs on the news media, the United States said this week.

"It's another year that has been dismal In other words, no progress," Mr Richard Schifter, Assistant Secretary of State for Human Rights, told reporters

"We are certainly not seeing any rays of hope within the last year"

Mr Schifter, presenting the State Department's annual survey of human rights conditions around the world, said it was difficult to compare South Africa in 1987 with the previous year

But the report said "The human rights situation in South Africa continued to deteriorate in 1987"

Mr Schifter acknowledged that there were problems of majority or minority domination in other African countries, but said South Africa was unique because "apartheid is so comprehensive and spelled out in numerous laws"

The report catalogues racial repression, torture and other official abuse of human rights

PRESIDENT Botha ... appeal.

ASSOCIATED PRESS

Law

Killings and bomb blasts directed against anti-apartheid groups and trade unions continued, the report said

The 23 pages devoted to South Africa made up the second-longest section in the 1 358-page "country reports on human rights practices for 1987," exceeded only by the 24 pages devoted to the Soviet Union

Under US law, the State Department prepares the reports annually as a foreign policy guide to lawmakers

"While the Government claims that South Africa is a parliamentary democracy, blacks continue to be denied the right to vote in national elections and to be represented in Parliament," said the report

The Government has brought "to a virtual halt" introduction of "gradual and piecemeal reforms that ameliorate some aspects of apartheid," it said

The reforms undertaken in any event "do not threaten continued white control of the nation's key political structures," the report said

It is said the Government continued its homelands policy by incorporating more black residential areas into the regions to which all blacks are assigned on the basis of ethnic background

No other country has recognised the independence of the homelands

"Since 1976, the Government has granted "independence" to four homelands, thereby forcibly stripping an estimated eight million South African blacks of their South African citizenship," the report said

Criticism

It said the Government not only reimposed the state of emergency in 1987 but also rewote many regulations closing "loopholes" to prevent courts finding faults in the regulations Some 30 000 people have been arrested under the state of emergency since June 1986, it said

"During 1987, the Government took a number of measures to further restrict both the local and foreign Press," the report said, but added that the South African Press "continued, when possible, to engage in at times vigorous criticism of the Government and its policies"

Despite appeals from President P W Botha, "all credible black leaders maintained their refusal to enter talks until the Government met certain conditions," including the release of political prisoners, it said

"The level of political violence apparently declined in 1987 from previous years, although at least 500 people died as a result of such violence during the year," the report said

The "shadowy war" between South African forces and the African National Congress escalated, it said

"South African forces were involved in raids, bomb attacks, abductions and assassinations directed against the ANC in various neighbouring countries," the report said

"The ANC often equivocated or was silent on the question of responsibility for individual incidents of violence", such as bomb attacks in South Africa, it said "Officials of the organisation continued to disavow a strategy of deliberately hitting civilian targets"

The report said the ANC fuelled violence by calling on blacks to attack "collaborators"

Abuse

The Government used the ANC-backed attacks as justification for repressing members of trade unions, it said

The report also said

- "Several deaths of persons in police custody occurred during the year
- "In recent years, many people have disappeared, reportedly into police custody, for long periods,
- Many persons reported that they had been held in solitary confinement during their detention Others gave accounts of torture by police, including applications of electric shocks to hands, feet and genitals,
- "Police and other security force members were seldom held accountable in 1987 for abuse of detainees" — Sapa
- This report has been censored in terms of emergency regulations

The Media Council

THE South African Media Council is an independent body established to deal with various matters affecting media reporting and comment.

media directly Complaints must relate to published editorial matter and should be lodged within 10 days of publication. But late complaints may be accepted

Cape Times 9/2/88

Spouses can give evidence

Political Staff

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THE husband or wife of an accused will in future be competent to give evidence for the prosecution in criminal proceedings, if a Bill tabled in Parliament yesterday becomes law

Currently, the spouse is not competent to give evidence

The Law of Evidence Amendment Bill provides that while a husband or wife is competent to give evidence he or she cannot be compelled to do so except where the accused is charged with specific crimes such as abduction, bigamy and incest

The new Bill also allows for courts to take judicial notice of the law of foreign state and indigenous law providing it is not contrary to natural justice

A court will not be allowed to declare the custom of lobola or bogadi unlawful

Citizen 14/2/86

'Save Sharpeville Six' plea

CP Correspondent

THE Save The Sharpeville Six Committee, an Amsterdam-based international organisation campaigning for the reprieve of the death sentences on six Sharpeville residents following riots in 1984, has launched a worldwide campaign to save their lives.

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The campaign follows the dismissal by the Appeal Court of the appeal against their convictions and death sentences.

The six include Theresa Ramashamola, 26, the first woman to be sentenced to death in South Africa for political activities. The others are Dan Mokhesi, 28, Duma Khumalo, 26, Moses Diniso, 30, Reid Mokoena, 23, and Mojalefa Safatsa, 32.

The six were sentenced to death for their participation in the rent boycott which inspired riots which erupted in Sharpeville and surrounding townships on September 3, 1984, and resulted in the death of deputy mayor, Khuzwayo Dlamini.– Ano

Political comment and newsbills by ZB Molefe Headlines and sub-editing by F Alberts, all of 204 Eloff Street Ext, Johannesburg

Final appeal by Sharpeville six

By STAN MHLONGO

THE lives of Sharpeville's six residents sentenced to death for killing a Lekoa councillor during the 1984 Vaal riots, are now in the hands of State President PW Botha.

A Johannesburg attorney representing the six, this week told *City Press* that following the failure of the appeal against the death sentence in the Bloemfontein Appeal Court in November last year, "the six have appealed for clemency from the State President".

The six – Mojalefa Reginald Sefatsa, 30, Reid Malebo Mokoena, 22, Oupa Moses Diniso, 22, Duma Joshua Khumalo, 26, Francis Don Mokgesi, 28, and Theresa Ramashamola, 24 – were convicted of killing Lekoa deputy-mayor Khuzwayo Jacob Dlamini.

Plea over Vaal Six

LAWYERS representing the "Sharpeville Six", who are on Death Row, yesterday appealed to the international and local community to support fresh attempts to save them.

The lawyers urged the world to call on President P W Botha to save the six who were sentenced to death more than two years ago

The six are Mojalefa Sefatsa (30), Reid Mokoena (22), Oupa Diniso (30), Duma Khumalo (age not given), Francis Mokgesi (29) and Theresa Ramashamola (24)

They were sentenced to death for the murder of a Lekoa town councillor, Jacob Dlamini, on September 3, 1984, during the outbreak of violence in the Vaal

The lawyers, addressing a Press conference in Johannesburg yesterday, said they were waiting for President Botha to respond to a petition they sent to him three weeks ago They had asked him to save the six from the gallows.

By LEN MASEKO

The six had received messages of support from local and international groups, including the Organisation of African Unity, United Nations' Security Council, Azapo, UDF and the Congress of SA Trade Unions

Clemency

The International Commission of Jurists had also sent a letter to President Botha, asking for clemency for the six

Earlier, the Sharpeville Six Campaign Committee appealed to the community to support a "signature" campaign for the reprieve of the six.

The committee was formed by the Azanian National Youth Unity and African Allied Workers' Union

The committee said in a statement "The signature campaign has been in circulation since December last year, when their appeal in the Supreme Court was turned down

"We once more appeal to the African community countrywide to show sympathy and concern by signing the petition"

An appeal lodged with Appellate Division of the Supreme Court in Bloemfontein last December was turned down

PRESIDENT Botha . . sent petition.

12/2/88

Seven hang today

SEVEN death row prisoners have been informed that they will be hanged this morning, according to their families.

However, the sheriff of the Pretoria Supreme Court said he could not confirm this. He said it was state policy to release details of executions only after they had taken place.

Representatives of the SA Prisons Service and Department of Justice referred all queries to the sheriff.

The seven, who reportedly will be hanged today, will be the first to be executed this year. Last year 164 people were executed — the highest number since 1910.

(252) W/Mail 29/1 - 4/2/88

Spare the Six, calls church group

By Jo-Anne Collinge

An urgent appeal to spare the Sharpeville Six from the death penalty has been sent to President Botha by more than 430 Christians in Hamburg, West Germany.

"People are very much concerned that six persons out of thousands are held responsible for the tragic death of the township major (sic), Mr Dlamini, and are sentenced to death, though in none of the cases direct action that caused the death of the victim could be proved," Ms Eva Jurgensen of the South Africa Group of Evangelical Women Workers wrote.

The Sharpeville Six were sentenced for the death of deputy mayor Mr K J Dlamini on September 3 1984.

They recently lost their case in the Appellate Division and only the granting of clemency by Mr Botha can now save them.

Ms Jurgensen said that the signatures had been collected after two church services in the Christmas period

In addition to a copy of the Hamburg petition, in the last week The Star has received copies of more than 25 letters to the State President pleading for clemency for the Sharpeville Six. They come from organisations and individuals in the United States, Canada, Britain, West Germany, France, Austria, Switzerland and Sweden.

Death sentence has set legal precedents

Cape Times 29/1/88

Unlikely martyr is sitting out her last days in Pretoria jail's Death Row

By STEPHEN ROBINSON
of the Daily Telegraph

WHEN Theresa Ramashamola, a 24-year-old former waitress, drops from the gallows at Pretoria Central Prison later this year, she will become one of South Africa's unlikeliest political martyrs

Until her arrest and conviction for the murder of a black township councillor in 1984, Ramashamola shared a one-bedroomed house with her mother in the squalid and overcrowded township of Sharpeville, commuting each day to Vereeniging for her work.

She is a practising Catholic and used to attend mass regularly at her local church Father Patrick Nonan, an Irish priest who has lived and served in Sharpeville for the past four years, describes her as an unsophisticated woman with no understanding of politics She passes her days on death row reading religious pamphlets

The gruesome ritual

On September 3, 1984, a large, unruly crowd protesting at township rent increases gathered outside the home of Sharpeville's deputy mayor, Khuzwayo Dlamini

Stones were thrown, Dlamini pulled a gun and fired into the crowd As he tried to escape over his garden fence, he was pulled down by three unknown assailants and disarmed of his pistol More stones were thrown at him, until Dlamini was dragged unconscious onto the street and set alight

It was the sort of gruesome, ritualistic murder which occurred with sickening regularity in South Africa's black townships in 1984-85 Dlamini, a councillor working within an unpopular government-sponsored system, was murdered by a baying mob demanding "people's power"

Theresa Ramashamola was part of that crowd She and five others were arrested, charged and found guilty of murder, even though the court acknowledged there was no direct evidence to suggest the conduct of any of them had contributed directly to Dlamini's murder

The "Sharpeville Six" are to hang because the court found them to have "common purpose" with the crowd whose intention was to murder Dlamini

One person's evidence

Ramashamola was convicted on the evidence of a single State witness, who claimed to hear her shout "He (Dlamini) is shooting at us, let's kill him" — a charge she denied. She also allegedly slapped a woman who had remonstrated with the crowd not to burn Dlamini But no evidence was led to suggest she was guilty of physically killing him

"There are two deeply disquieting things about this judgment," says Edwin Cameron of the Wits Law Department

"It applied the doctrine of common purpose in a way that could implicate a crowd of thousands and render them liable to the death sentence

"It also established, for the first time in South African criminal law, that conduct not proved to contribute causally to a death can nonetheless lead to conviction for murder"

Most ominous of all, Cameron believes, is that "the Appeal Court has widened the doctrines of criminal liability in response to evidence of township revolt"

A petition for clemency

Lawyers acting for the six have played their last card, and delivered petitions for clemency to President P W Botha, the only man who can save them now

Sharpeville residents believe the six will hang as an example to others that government will not tolerate assaults on its system of black local administration

It will be turning six unpolticized blacks into political martyrs

Court restrains kitskonstabels accused of 'licenced terror'

W/Mail 27/2/88

By GAYE DAVIS, Cape Town

A POLICE undertaking that *kitskonstabels* deployed in Bhongolethu township, outside Oudtshoorn, will be restrained from unlawfully shooting at, killing, arresting, detaining or assaulting residents was made an order of the Cape Supreme Court this week

The order was granted following an urgent application by a Southern Cape Council of Churches fieldworker and six residents, and further restrains police from seizing possessions, entering homes, threatening, insulting, harassing and intimidating residents.

Fieldworker Mzukizi Skosana and the residents brought the application after an earlier undertaking by police in July, which was not made an order of court, "did not have any effect".

In an affidavit Skosana describes a "shooting spree" by *kitskonstabels* on January 16, in which three people died and at least 10 were injured. Other affidavits cite assaults and other harassment which took place after the original undertaking was made.

Police agreed to this week's undertaking without admitting liability. The fact that it has been made an order of court means that should the undertaking be breached, residents can bring contempt proceedings against police

The entire matter has been scheduled to be heard on February 18, when oral evidence will be led in view of the major disputes of fact between residents' allegations and denials by police of any untoward behaviour on the part of the *kitskonstabels*.

In affidavits supporting their urgent application for relief brought in July last year, residents described Bhongolethu's 16 *kitskonstabels* as "*de facto* vigilantes officially licensed to terrorise anyone whose views differ from their own".

A wood-and-iron shack dubbed the *geel huis* (yellow house) serving as a mobile police unit on the township's outskirts emerged as a symbol of terror for residents who alleged they were tortured and assaulted there by *kitskonstabels* who, residents claimed, were more often than not drunk.

An executive member of the Bhongolethu Civic Association, Mbulelo Grootboom, warned in an affidavit that it was only a matter of time before people reacted against the *kitskonstabels* in the same way they dealt with the black policemen who were driven from the township during 1985.

One of the *kitskonstabels* identified by residents as one of the main culprits, a former Administration Board employee who used to arrest residents on pass-law offences, was killed on January 10, heightening tension in the township

In their replying affidavits, police aver the residents' bid for legal redress amounts to nothing more than a campaign by "radical elements" to undermine the authority of *kitskonstabels*, described as "the last line" of law and order in the township.

Major George Marx, commander of the Oudtshoorn unrest unit, states that since *kitskonstabels* started operating in Bhongolethu last January, he had received "no reports" of their bad behaviour, unauthorised shootings or being drunk in uniform

Entries in the Bhongolethu police station's incident book, perused by attorneys acting for residents, tell a different story.

In an affidavit, articled clerk Hendrik Smith lists 20 entries made between October 1986 and September last year dealing with *kitskonstabels* reporting for duty while drunk, firing standard-issue shotguns without apparent due cause, failing to report for duty, accidentally setting off teargas grenades and assaulting each other.

Another area of dispute is the amount of support enjoyed by the Bhongolethu Civic Association, which brought the original application, and other United Democratic Front affiliates in the township.

Police affidavits claim as few as 20 percent of Bhongolethu's estimated 6 500 residents support BHOCA and that only a minority of youth support the Bhongolethu Youth Organisation Intimidation of residents is cited as the basis for any support there is.

Just two friends in a hundred

A SURVEY by researchers at the University of Cape Town's Institute of Criminology reveals that only two percent of Bhongolethu residents believe they have been well-treated by *kitskonstabels*.

Beatie Hofmeyr and Tammy Shefer interviewed a random sample of 498 residents over the age of 18 during October last year to "find out what people really felt since this was in dispute between both sides"

An analysis of their survey revealed 80 percent of those interviewed felt the *kitskonstabels* treated people badly — only two percent feeling they were well-treated.

"Many interviewees expressed the opinion that the constables should be there to protect people, but instead were actually a threat to the safety of individuals," they state in an affidavit.

Other findings included:

- 77 percent of interviewees reported having seen *kitskonstabels* drunk on duty more than once a month. Swearing at residents and assaulting them without apparent reason were other commonly reported grievances.
- 70 percent reported seeing or experiencing aggressive behaviour — pushing, grabbing, choking) by *kitskonstabels* more than once a month, while as many as 65 percent had seen people being beaten.
- Residents expressed fear that the *kitskonstabels*, whom they saw as irresponsible and ill-trained, had access to deadly weapons; 48 percent reported seeing a *kitskonstabel* pointing a firearm at residents more than once a month. Only 11 percent had never seen this.
- A majority of residents, 56 percent, had personal complaints against the *kitskonstabels* for either arbitrary abuse or politically motivated action.

ALL THINGS CONSIDERED

BARNEY MTHOMBOTHI

Dirty war tactics put us in polecat company

Star 6/2/88

THIS country can quite easily slide to the status of a banana republic like those in Latin America, if we're not careful Some would argue we've travelled that far already

We have hit squads on the prowl and the list of unexplained murders is getting disconcertingly long An insidious "dirty war" is being waged here and in neighbouring states.

Sicelo Dhlomo is the latest victim — most are opponents of the Goverment — butchered in the most brutal fashion imaginable

If, as some circles are trying to suggest, it is the work of political opponents, what stops the authorities bringing such murderers to heel?

I don't know what to make of the reward offered by the police for the arrest of those behind the latest outrage. Fact is, none of the killers of many Government opponents has been brought to justice.

The Ribeiro case was the nearest they came to a prosecution, but official conduct in that chapter has left a bitter taste in many a-mouth

Innocent blood

I often wonder what will happen to all those causing so much pain and agony once the country has sorted out its problems Are we, for instance, going to have Nuremburg-type trials of our own?

President Raul Alfonsin of Argentina, in trying to deliver on his election promises to weed out all those in the military who washed their army boots with innocent blood, has hit snags that threaten to topple his government.

Elements within the army won't let justice take its course

In Haiti, the Tonton Macoutes went on a murderous spree two months ago, slaughtering voters at polling booths when it became clear staunch opponents of Duvalierism were likely to win The elections were cancelled.

Now, after new elections, the Macoutes have got their man. And the men of darkness will once again escape their just deserts

The usual refrain is it won't happen here. Like Ian Smith was fond of saying "*Our* Africans are the happiest lot on the continent"

Well, kyk hoe lyk hy nou

Difficult to resist

Had Robert Mugabe and his men fought their way into Harare, rather than being stopped in their tracks by the Lancaster talks and an impatient and war-weary Samora Machel, it is doubtful whether certain people would still be around to claim their pensions.

The new leadership would have found it difficult to resist a mood for revenge among its followers.

Those on the Right who believe the Zimbabwe settlement was a sell-out will do well to remember that things could have been worse

There are those who profess a hatred for violence but nod approvingly when it hits elsewhere or advances their cause Angola is a perfect example

Either murderers are found and punished, or we forget about peaceful solutions.

Shop owner claims link with progressive mayor sparked raid

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C/Press 7/2/88

By MBULELO LINDA

A JANSENVILLE resident who owns an unlicenced house-cum-shop in Draai Location, this week claimed he was being harassed by municipal police because he was related to the mayor of Jansenville, a former detainee

Jeremiah Minnie, 54, son-in-law of mayor Daniel Grootboom, said his shop was raided last week by municipal police who demanded his business licence.

After he failed to produce it, he was left with a notice to appear in court or pay an admission of guilt fine of R100 before February 20.

According to Minnie, the municipal police were instructed by the then town council superintendent, Johan Nel, to raid his shop

Mayor Grootboom is an ex-detainee and has intervened on a number of occasions on behalf of residents Residents said the relationship between Nel and Grootboom had been fraught with tension because of Grootboom's progressive stance in community matters

Minnie's wife, Cinderella, also an ex-detainee, alleged that some councillors received their business licences a short time after applying Her husband had struggled to get a licence because Nel had allegedly been intercepting his applications to the CPA

Last week, Nel was transferred to Port Elizabeth The CPA denied that he was transferred because residents were unhappy with the way he conducted things

A councillor who agreed to be interviewed on condition that he remained anonymous said "We have pushed the CPA to remove Nel from Jansenville because he wanted to run a one-man show"

The councillor said now that Nel had been transferred, people would get their hawkers and business licences and would also get land to build their own shops and churches.

The Minnie family has approached the Legal Resources Centre for legal advice — Ecna

D/D 4/2/88 (252)

Two men charged under Police Act

EAST LONDON — Two 18-year-old Duncan Village men appeared in the regional court yesterday on charges of contravening the Police Act by pretending to be policemen, and of housebreaking and theft

Mr Sibongile Tiso, of Mpaku Street, and Mr Sakhiwo Sizani, of Mathuntutha Street, both entered pleas of not guilty

The complainant, Mrs Nomhle Mbane, testified that a man came to her door late at night and identified himself as a policeman

When the man came in she saw he had a knife and so she ran into her bedroom and locked herself in

After the man left her home, Mrs Mbane discovered that her television and video recorder, valued at more than R2,000, were missing

The trial continues today — DDR

Mr P M A Pretorius was on the bench and Mr T R Tyler prosecuted

Now Numsa will take its dispute to Supreme Court

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STAR 4/2/88

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By Mike Siluma, Labour Reporter

The National Union of Metalworkers (Numsa) has decided to take its long-running dispute with BTR Sarmcol to the Supreme Court, following the industrial court's decision to throw out the union's application for the reinstatement of about 1 000 members.

The workers were dismissed in April 1985 after going on strike, demanding that the company (which has since merged with BTR Dunlop) recognise Numsa (then known as the Metal and Allied Workers' Union).

In a statement yesterday Numsa said it had decided to take the matter to the Supreme Court on review because it had "no intention of giving up the struggle for justice for the workers of BTR".

"Independent senior counsel have advised that in their view the judgment and the conduct of the presiding officer during the trial was such as to warrant review proceedings being instituted

"BTR has confirmed itself as one of the worst employers in South Africa, and its activities will not be forgotten," said Numsa.

A statement issued last night by Mr G R Sutton, group public relations manager for BTR Dunlop Ltd, acknowledged receiving notification from Numsa's lawyers indicating a desire to have the industrial court's decision reviewed in the Supreme Court.

But, it said, "To date, five months after the judgment, no papers setting out the union's case for review have been submitted to the company, or its lawyers".

Cape Times (252)

Munnik reacts to finding on Dalling

Political Staff

THE Judge President of the Cape, Mr Justice George Munnik, is considering possible further action after the decision this week by the parliamentary select committee not to find Sandton MP Mr Dave Dalling guilty of breaching parliamentary privilege over the comments he made about the judge's role as commissioner investigating last year's ANC advertising campaign and its funding

Mr Justice Munnik said yesterday that he had so far read only press summaries of the select committee's findings, which had ruled that Mr Dalling had merely failed to abide by recognized parliamentary practice in attacking a judge in his judicial capacity

Mr Justice Munnik said he had since asked for a full transcript of the report and after studying it and consulting the Speaker, he would consider responding to Mr Dalling's comments

As recorded in Hansard, Mr Dalling said last May that Mr Justice Munnik should have recused himself

Meanwhile, Sapa reports that Mr Dalling yesterday accused the SABC of "blatant manipulation of the true facts" in its reporting of the committee findings

The main finding was that the charge brought by the Minister of Justice relating to a breach of privilege failed This was not conveyed to the public by the SABC, Mr Dalling said

New entrepreneurs want protection from bureaucracy

Small Business calls for a Bill of Rights

SMM 3/2/88 (254)

By Michael Chester

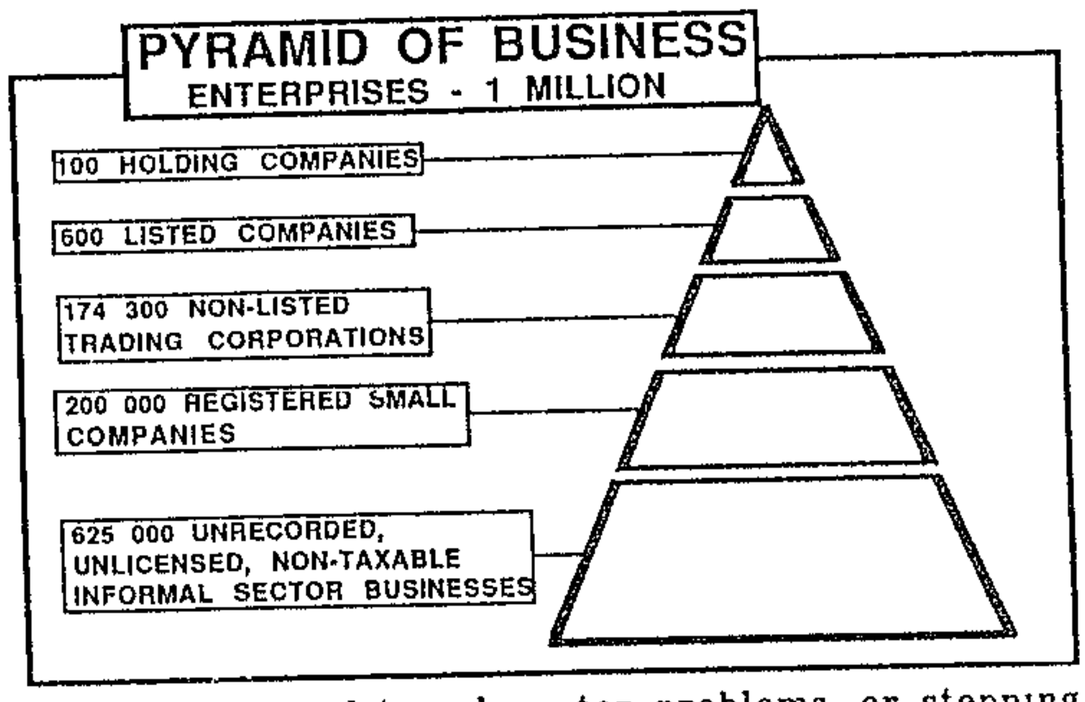
The Small Business Development Corporation (SBDC) appealed today to the Government to introduce a special "business charter" in the form of a Bill of Rights to protect small entrepreneurs in the informal sector from harassment by bureaucracy.

The appeal came from Mr Mike Smuts, general manager of development services He urged the establishment in all major cities and towns of specific zones where informal-sector street traders and hawkers are guaranteed freedom to operate without red-tape hassles

The recommendations came after a fresh wave of official action against street traders in the Johannesburg city centre.

Mr Smuts expressed particular concern over recent enforced removals of several black hawkers and traders from the Hoek Street Mall, which the SBDC helped to launch as a market reserved for informal-sector operations

Harassment of the informal sector was still occurring, in spite of recommendations by the Economic Affairs Committee of the President's Council that needless regulations and red-tape should not be allowed to be obstacles to black entrepreneurs setting out to launch their own business enterprises



"There have been voices of encouragement at parliamentary level and several obsolete regulations have disappeared," said Mr Smuts "But there are still many incidents of harassment by bureaucrats at municipal level using antiquated by-laws to order the removal of street traders on one excuse or another — such as causing litter problems, or stepping across a particular invisible boundary, or offences under obscure traffic laws

"Sometimes there is also harassment by vested interests inside the established formal sector which resent competition, and cause hassles to street traders who venture into what they regard as their own sales territories

"They fail to see the longer-term benefits of a strong informal sector to the entire economy and to their own businesses

"The informal sector is already responsible for no fewer than 600 000 of the million business enterprises in operation in South Africa today It has already created 1 500 000 jobs or more to hack down the unemployment problem, and emerged as easily the biggest generator of new job opportunities in the country The more successful it becomes, the more wealth it generates to everyone's ultimate benefit

"It is both tragic and farcical that harassment is allowed to continue One can visualise the modern structure of South African business as a pyramid It's foundations depend on a growing informal sector — and if there is tampering with the foundations, the whole pyramid is threatened

"It is also obvious that the thicker and stronger the foundations, the bigger the pyramid it becomes capable of supporting

"The best way to ensure the safety and future expansion of the foundation is to introduction a special form of business charter — a Bill of Rights — to protect the whole informal sector and guarantee its expansion"

Vacancies on Natal bench may end brief 'liberal' era

By CARMEL RICKARD, Durban

CIVIL Rights watchers expect the character of the Natal judicial bench to change significantly this year because of a number of vacancies which will have to be filled

For some years lawyers have believed there has been a tendency for a significant proportion of the Natal bench to be more concerned about human rights issues than the judiciary in some other provinces — and to reflect this concern in judgements.

Now the province has lost its two most senior judges, both closely associated with this concern for civil rights: the acting deputy judge president, Mr Justice Ray Leon, retired towards the end of last year, while the judge president himself, Mr Justice John Milne, has been appointed to the Appellate Division in Bloemfontein.

Mr Justice Auret van Heerden will fill the post of judge president for six months, and his new deputy, Mr Justice Allan Howard will take over as judge president mid-year.

This leaves the bench with two vancancies and it is widely expected that a third will occur soon with the imminent appointment of another Natal judge to the Appellate Division. This judge's appointment has not yet been officially announced but there is little doubt that there will soon be three new faces on the bench in the province.

Observers describe the next period as a "vital time" for Natal and believe that the character of the bench could have changed substantially by this time next year

Meanwhile, another legal expert has joined the controversy over the reappointment of former Chief Justice Pierre Rabie He officially retired last year when he turned 70, the statutory age for retirement, but he was then appointed as acting chief justice, a position which has never existed before

Professor of public law at Natal University, Laurence Boulle, said this week there was little doubt that the appointment of Mr Justice Rabie was "unconstitutional".

Boulle — an expert on constitutional law — said this was clear both from the relevant laws relating to the appointment of acting judges, and because the obvious intention of parliament was not to allow for this kind of appointment

However, he added that while the appointment might be unconstitutional this did not mean a court would find it illegal and he did not believe there would be much chance of a successful court challenge to the appointment

"In terms of the practical realities of our legal system it would probably never be declared illegal.

"It is unlikely that a judge would ever be prepared to make such a declaration. In addition there is some ambiguity in the language which would give a judge a way of not finding the appointment illegal."

Boulle said the clear intention of parliament in allowing for acting judges, was to provide a short term solution for a temporary need which could only be met by acting judges.

"There is clearly no such need now and therefore this is not the kind of situation contemplated by the legislature.

"From a political point of view it is also clearly improper in that the authorities failed to give adequate reasons for the appointment."

Detainee family ask court to overturn inquest ruling

BY VUSI GUNENE

A DETAINEE'S family will launch a Supreme Court application to overturn an inquest magistrate's refusal to hear the "imperative" evidence of a district surgeon.

Simon Marule, 20, former vice-chairman of the Congress of South African Students, died on December 23, 1986 — one day after he was taken from Modderbee Prison to the Boksburg/Benoni Hospital

His family argues that, according to the prisons regulations, every prisoner should undergo a full physical and mental medical examination on admission. They say the evidence of a Dr Steyn, which relates to Marule's first admission — at the Dunnottar police station near Springs — is imperative

However, magistrate M van Wyk this week said he had heard sufficient witnesses.

Marule's family have six weeks to file an application asking the Supreme Court to review Van Wyk's refusal to call Steyn to give evidence The inquest has been postponed until the application's outcome

In an earlier hearing this week, two district surgeons, doctors Dyson and Fletcher, contradicted the evidence given last November by Prison Services medical orderly Lieutenant Lukas van der Westhuizen

Dyson told the inquest court his examination was based on Marule's medical history and complaints and did not involve blood pressure and urine tests. He said he was working under "difficult conditions" at that time.

Lawyers for the family questioned Dyson on a district surgeons meeting in July 1986 which dealt with the treatment of Emergency detainees. The meeting decided district surgeons should conduct urine and blood pressure tests on all detainees

Dyson told the hearing he thought it was the responsibility of the SA Prisons Service to conduct such tests.

However, in earlier evidence, prisons medical orderly Van der Westhuizen said it was not part of the routine for prisons officials to conduct the tests.

Dyson and Fletcher told the court they could not remember seeing Marule on his admission to Modderbee — despite Van der Westhuizen's evidence that Fletcher had seen him

The prisons G335 card, which is used to record a prisoner's medical record, bore Dyson's signature

He said when he saw Marule on December 22, 1986 he suspected the detainee had had heart failure He said Marule had also complained of swelling.

Dyson gave the prisons service a note instructing that Marule should be taken to the hospital that day However, he was not taken to hospital until late that night — after cell mates alarmed by his deteriorating health had shouted for help

When asked whether he had conducted a follow-up examination into Marule's condition, Dyson said he thought his instructing note would have ensured the prisons service sent Marule to hospital

SA in 'four worst' human rights list

W/Mail 29/1 — 4/2/88

SOUTH AFRICA is one of the world's four "worst offenders" in its persecution of human rights activists, according to a new report published by the New York-based Human Rights Watch organisation

The report places South Africa alongside Chile, Czechoslovakia and the Soviet Union in its treatment of organisations and individuals — like the Detainees Parents' Support Committee — which monitor human rights transgressions

Human Rights Watch seeks to "embarrass governments with the records of their own misdeeds" and at least promote a reduction or mitigation of abuses" by the publication of its reports

The organisation notes that in South Africa "often no charges are specified against many of the human rights monitors in detention and even the place of detention is not always known"

The report lists 44 South Africans detained, threatened or restricted between December 1986 and December 1987 Many of these are church workers and journalists

While the report draws up a "league table" of offenders, Human Rights Watch notes that its "index of repressiveness" is not scientifically calculated — rather, statistics are used to reveal broad trends in government actions against Human rights monitors

W/Mail 29/1 — 4/2/88

Cape Times 30/11/90

150 hours' gardening for teenage LSD seller

252

Court Reporter

A CONSTANTIA teenager who was convicted of dealing in 200 units of LSD was yesterday sentenced in the Magistrate's Court to 150 hours community service at Kirstenbosch Botanical Gardens

The 17-year-old, who may not be named, previously pleaded guilty to dealing in the LSD on December 2 last year in Cape Town The hearing was held in camera. He had his sentence postponed for a year and was told to appear again on January 30 next year.

"I turned myself in because my brother was arrested and the investigating officer told my father that my brother would go to a rehabilitation centre if I turned myself in," he said "I believed this was the right thing for him

The magistrate, Mr H L Muller, ordered that he submit himself to the treatment of a probation officer for one year, that he complete the community service within five months and do a minimum of 30 hours a month

He is to report within three weeks to the gardens, where he will be supervised by Mr R Saunders His duties will be weeding, gardening and general maintenance

Previously he told the court he sold LSD to various people for between R15 and R20 a unit He had bought the drug for R11 a unit and received it from Johannesburg

The teenager said he used drugs but was not addicted

Mr W A Claasen prosecuted The youth was not represented

Brief

Bail refused after two years in jail

C/Press 31/1/88

(252)

CP Correspondent

A BAIL application by 17 Uitenhage residents who have been in jail awaiting trial for over two years, was refused this week

The 17, most of whom were juveniles when arrested, face murder charges following the 1985 killing of community councillor Thozamile Dondashe in Kwanobushe.

Bail was opposed in the Port Elizabeth Supreme Court on the grounds that the accused would disappear, interfere with State witnesses, or be killed by other factions in the townships.

Judge Jones said the bail application should have been heard during the last Supreme Court term, when the defence realised that the case could not be heard until this year

He did not think the application was urgent enough to be heard during recess

A spokesman for the Attorney-General said the numerous postponments were caused by a shortage of courts

The application was brought by D Chetty on behalf of Mthetheleli Lucas, 23, Thozamile Cliff Mooi, 25, Thembile Joe Matana, 27, Violet Hombakazi Matabese, 39, Phillip Thembile Kinikini, 21, Sipho Nxele, 19, Zimasile Fulani, 20, Morris Michael, 18, Patrick Blaauw, 19 and nine youths aged 17

In affidavits supporting the application, the accused said they had spent an inordinate length of time in prison awaiting trial They did not intend evading the trial and did not know who the State witnesses were.

They had all pleaded not guilty

The judge called for the case to be brought to court as soon as possible – Ecna

A month's reprieve for New Nation

S 11/2/86 W/Mail 52

By ADRIAN HADLAND

THE *New Nation* can publish and not be damned — at least until March, a member of the newspaper's legal team said this week.

This follows an agreement in the Rand Supreme Court on Tuesday by Minister of Home Affairs and Communications Stoffel Botha not to suspend or act against the newspaper pending the determination of the issue by a full bench of the supreme court.

New Nation launched an urgent application last week asking that the threat of a three-month suspension be withdrawn, and alternatively that the media regulations themselves be declared invalid in law

Affidavits filed by the state revealed the minister had intended to suspend publication of the newspaper from January 15.

Mr Justice Van Niekerk, presiding over the case this week, indicated that the issues of suspension, and the media regulations, were intimately connected.

He was not prepared to rule on one issue only and felt it necessary to refer the case to a full bench. A decision of the full bench of the supreme court is likely to carry far more weight than that of a single judge, according to the *New Nation's* legal team

Though the agreement by the minister has not been made an order of the court — which in effect means there is no legal recourse if he decides to renege — the newspaper is set to continue publishing at least until the full bench can be convened This is thought likely to be in early March.

Referring to the sweeping powers granted to the minister in terms of August's media regulations, *New Nation's* counsel, Jules Browde, SC, argued in court that the judiciary "must always exercise its responsibility to question laws and regulations.

"Every discretion is susceptible to abuse and is therefore deserving of judicial scrutiny," he said, and "every legal power must have legal limits."

Counsel for the state, JDM Swart, indicated the minister was prepared to accept *New Nation's* request that no action be taken until such time as the full bench could decide on the matter.

Goniwe, Mxenge, De'Ath ... a spate of controversial inquests begins next week

Row over two 'hush' Biko-style inquests

By JO-ANN BEKKER and CARMEL RICKARD

LEGAL wrangles over inquests into the deaths of two prominent political figures have prompted fears that officials are trying to avoid Biko-style, high-profile hearings in which the police come under close scrutiny

Magistrates have tried to turn the two inquests — into the deaths in 1985 of Durban civil rights lawyer Victoria Mxenge and East Cape community leader Matthew Goniwe — into informal hearings

This would mean that no witnesses would be called and cross examined In an informal inquiry the magistrate simply reads the affidavits presented to him and reaches a decision based on the papers alone

The deaths of both activists occured under extremely mysterious circumstances, prompting fears of the existence of Argentinian-style assassination squads No arrests have been made in either case

Allegations of official subterfuge — Dr Allan Boesak publicly blamed the police for Goniwe's death — have fanned the demand for full hearings

Informal inquests are usually held only in cases where no foul play is suspected, like suicides

The issue is already being tested in another case the inquest of cameraman George De'Arth, who was killed while filming Crossroads vigilantes in 1986

The magistrate's decision to hold an informal hearing is being challenged by lawyers acting for the family in the Cape Town Supreme Court next month

Mxenge was gunned down outside her Umlazi home in 1985

This week lawyers acting for her family went to court for the start of the inquest into her death — but the magistrate said he planned to hold only an informal inquest.

After discussion, the case was postponed to February 22 to allow further affadavits to be filed and on that date the magistrate will decide whether to hold an informal hearing, or whether to agree to a formal inquest

A family representative said they were concerned that this could be a sign of a new trend in which formal inquests would not be held following deaths of opposition figures

The Mxenge family have experience of inquests Mxenge's husband, Griffiths, also a civil rights lawyer, was killed on November 20 1981

●To PAGE 2

Bloody night after mine fight

By SEFAKO NYAKA

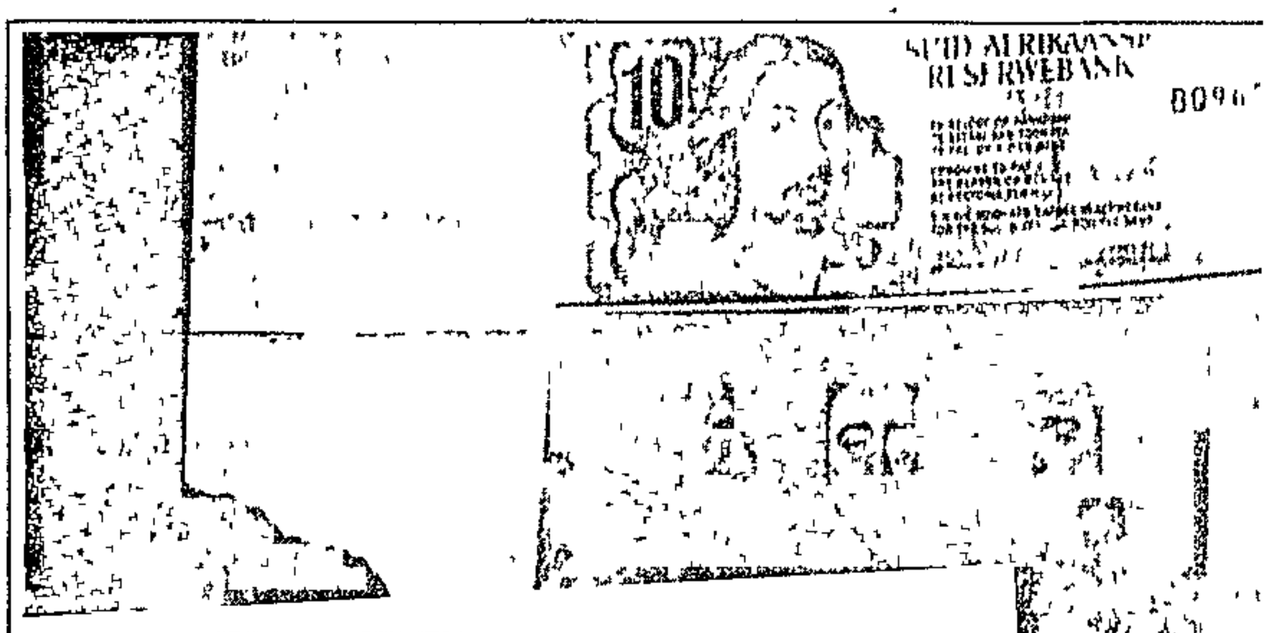
THE National Union of Mineworkers brought an urgent application in the Rand Supreme Court yesterday to restrain management at the strife-torn Randfontein Estates Gold Mine from deporting union members

Hundreds of NUM members were yesterday sent back to the "homeland" and neighbouring states after a night of intense fighting between these unionists and workers belonging to the Inkatha-backed United Workers' Union of South Africa

According to the mine owners, Johannesburg Consolidated Investments, four people were killed and 67 injured, three of them seriously, when about 400 men "seemingly without provocation, launched an attack on about 150 employees who were in the liquor outlet at the time"

But NUM union officials claim the fighting, which was not only confined to the liquor outlet, started after tribal representatives and Uwusa members attacked NUM unionists who had gone to the security offices to ask about nine shaft stewards arrested earlier that morning

A Mr Betram at JCI head office said shaft stewards "were taken to a shaft for disciplinary action".



Row over 'hurried' inquests

●From PAGE 1

The inquest into his death took several months, with a number of long adjournments Lawyers representing the family were able to cross-examine the police at length on their investigation into his death and their actions after discovering the body

The family are concerned that they will be denied this kind of opportunity should a formal inquest not be held

The magistrate says the state and the family are agreed that Mxenge was killed by unknown persons

He says there is therefore no need for a formal inquest which would involve additional expense and time and which would come to the same conclusion as an informal inquiry

This leaves the family lawyers with the task of submitting additional affadavits which might persuade the magistrate that there are good grounds for changing his mind and holding a formal inquest

Their task is made more difficult by the fact that eyewitness Mcebisi Xundu, the Anglican priest who dropped Mxenge at her house before she was shot, cannot identify the attackers

Matthew Goniwe, a United Democratic Front organisor, was last seen leaving a UDF briefing in Port Elizabeth on June 27 1985

He had phoned his wife in Cradock to say he was on his way home and would stop for no-one but a uniformed policeman

Over the next few days, the charred and mutilated bodies of Goniwe and his three passengers and UDF colleagues were found outside Port Elizabeth

As an informal hearing, Tuesday's inquest into the murders seems unlikely to provide new answers to the questions raised by the deaths of the Cradock leaders who organised the country's longest-ever school boycott and turned Lingelihle township into a model of organised resistance

Only two of the families of the deceased men — Goniwe, Fort Calata, Sparro Mkonto and Sicelo Mlauli — were told of the January 4 inquest

And those families who were informed were notified late Goniwe's elder brother, Alex Goniwe, said the letters were posted on December 22 but only arrived on December 28 "The offices of our lawyers were closed and I had to phone Cape Town and all over, looking for someone to help us"

Magistrate EL de Kock granted a postponement till January 26 But he said unless the families could provide new evidence about who was responsible for the murders, he would hold an informal inquest

This could mean the families of the dead men and the public will never know to what lengths the police went to investigate the murders

Mkonto's body was found on Friday night June 28 1985, a day after the men went missing, one kilometre away from Goniwe's burnt out car The following day, Mlauli's body was found Police said a fisherman who did not wish to be named had informed them of a body in the bush

The police at first denied that they were searching for Calata and Goniwe, stating that their families had not reported them missing But on July 2 1985 the East Cape Murder and Robbery Squad invited local reporters and photographers to accompany them and 35 South African Defence Force members on a search of the area where Mhlauli and Mkonto's bodies had been found, as part of their investigations in the murders

An hour after the search began the bodies of Goniwe and Calata were found in a small clearing

Independent forensic consultants, appointed by the relatives, found that there was no damage to suggest Goniwe's car had been forced off the road He also examined two sites where the bodies were found and concluded the four were alive when they were taken from the car.

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Goniwe, Mxenge, De'Ath ... a spate of controversial inquests begins next week

Row over two 'hush' Biko-style inquests

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22-28/1/88

W/Mail

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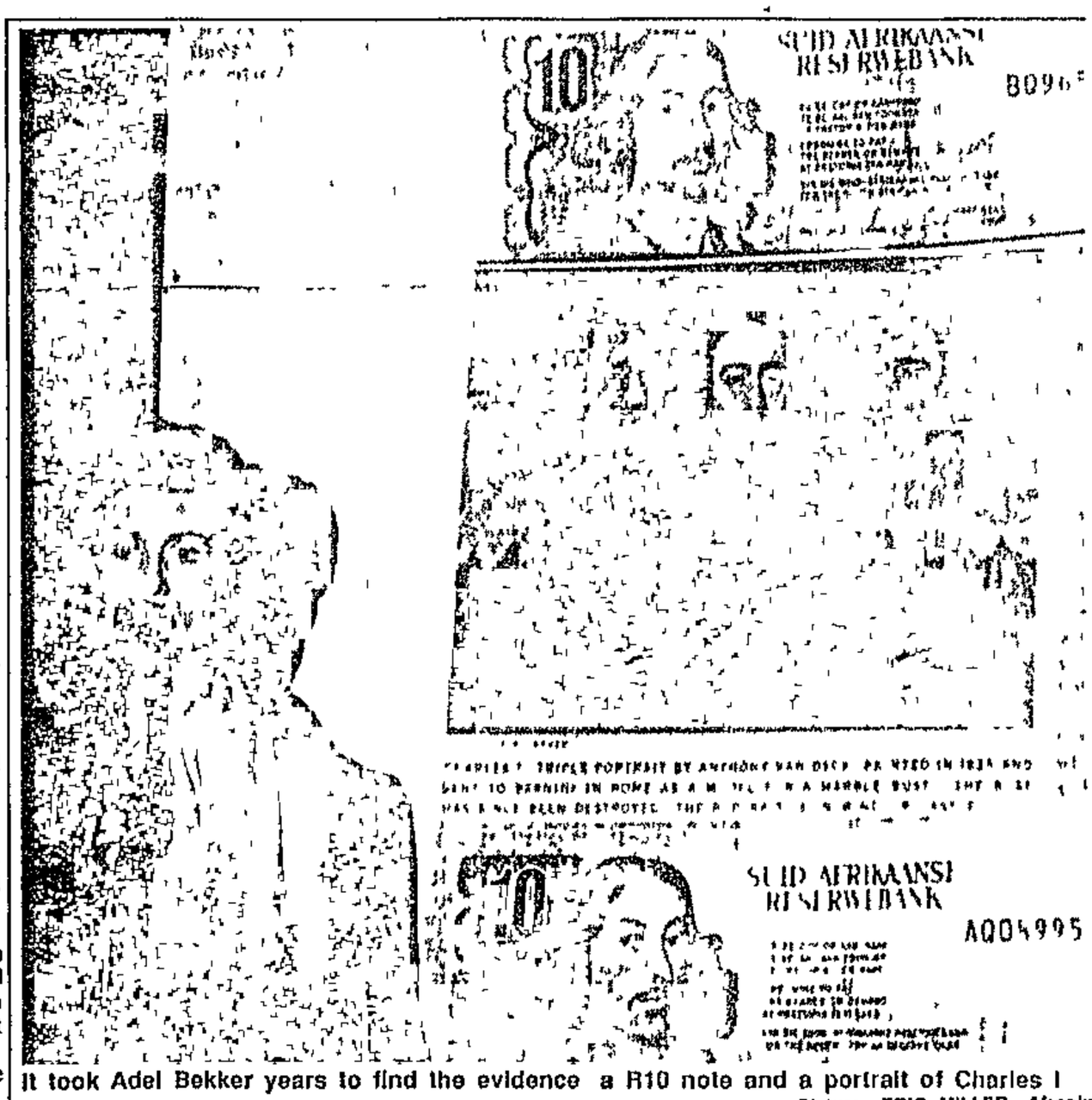

It took Adel Bekker years to find the evidence a R10 note and a portrait of Charles I Picture ERIC MILLER, Afrapix

Adel unmasks the bogus banknote

By SHAUN JOHNSON and ANTON HARBER

AT the launch of South Africa's newest political party in Johannesburg this week it was revealed that a portrait of a "foreign imposter" — and not Jan van Riebeeck — has been placed on the country's banknotes

"In 1910 International Money Power (IMP) decided to put one of their own members on our currency," Universal Bond founder Ms Adelmarie Bekker told a hushed audience of about 119 in the Johannesburg Sun's Cullinan Room on Tuesday

"It has taken me four years to find out who this imposter is," she said "He is Charles I of England . If PW Botha says South Africa First, why is he keeping a beheaded king of England on our banknotes?" she asked

No-one answered

This was just one of a number of grave allegations made by Bekker, a well-known tax expert and lobbyist who leads the new party

She also claimed that

● PW Botha failed his matric and was illegally admitted to the University of the Orange Free State ("This is the story I have been told If it is wrong I will apologise," Bekker said three times)

● IMP had plotted early this century to have the slogan of the Southern Life Association, *Ex Unitate Vires*, adopted as South Africa's national motto ("It was planned. It was

●To PAGE 2

Rabie: Call for clarity

Argus 13/1/88

(252)

JOHANNESBURG — The reasons for Mr Acting Chief Justice P J Rabie's reappointment should be made public as soon as possible, the president of the Association of Law Societies, Mr Keith Wilson, said yesterday.

"The circumstances of Mr Justice Rabie's appointment as Acting Chief Justice are unusual and might have been expected to give rise to speculation," he said.

"As it is obviously undesirable that the office of Chief Justice or its incumbent should be the centre of controversy, it is the Association's view that the reasons, which are no doubt unexceptionable, for Mr Justice Rabie's reappointment on an acting basis should be made public as soon as possible" — Sapa

LAW

A case of morality

Law professors will be rubbing their hands with glee as those old jurisprudential conundrums — what is the status of law, and how should judges behave in an "unjust" society? — surface again

Generations of law students have struggled with these problems They are in the news again following criticism, from respected sources, of some recent happenings in the South African legal world.

The ball started rolling with a speech given last year at the University of Natal by Edwin Cameron SC, a research officer at the Centre for Applied Legal Studies at Wits

He made three main criticisms The first related to a judgment given by Justice M T Steyn in Bloemfontein, shortly after the State of Emergency was declared in June 1986 Cameron criticises Steyn for prefacing his judgment with "a politically partisan, emotive and one-sided exposition of the government's view of the causes of and necessity for the State of Emergency "

Cameron continues: "The 'Bloem pronouncement' constitutes a startling venture by a Supreme Court Bench out of the realm of dispassion into the world of thoroughly partisan political rhetoric (It) is a sobering exercise in how judges should not act "

The second criticism deals with the practice of appointing politically compliant judges to head commissions of inquiry (the Munnik Commission, in particular, is mentioned) Finally, the constitutionally unprecedented extension of Chief Justice Rabie's tenure, without explanation, is questioned.

The central concern is with the status of the "rule of law" in this country At its most basic, the rule of law means exactly that: when you go into court you can expect to be tried according to *the law* as it stands (not according to what the community might deem correct, or what the judge himself might consider desirable)

Cameron notes· "The public must be confident the judicial garb of impartiality and dispassion, which is so important a part of our legal heritage, really exists."

More recently, John Dugard, Director of the Centre for Applied Legal Studies at Wits, voiced concern at the decision last year in the case of *Omar v Minister of Law and Order* In that case, the Appellate Division was faced with the first challenge to the validity of the emergency regulations of 1985-1986, on the basis of their alleged incompatibility with common law rights Dugard deplores the poor quality of the majority judgment (delivered by Acting Chief Justice Rabie), which fails to spell out its premises

Dugard himself argues that this was the missing premise the judgment was guided by "subconcious, inarticulated assumptions about the preservation of existing power structures." Dugard's comments are particularly noteworthy in that he is forced to admit that too many such cases might make resignation "the only option for the moral judge."

In 1984 Professor Raymond Wacks argued that South African judges do allow themselves to be guided by the "morality" or "institutional history" of the white community in exercising their choices in areas where they had to use their discretion Since this morality in SA was racist, and hence intolerable that it be applied, Wacks believed South African judges should resign Dugard differed, believing that in these instances racist and repressive statutes should be interpreted "in accordance with the principles of equality, reasonableness and natural justice "

Dugard still stands by those views, but is forced to acknowledge that *Omar* lends support to Wacks's view

Much jurisprudential ink has been spilled concerning the status of law in unjust societies The view taken on this matter is likely to depend on the extent to which one believes there should be an overlap between law and morality

There is a Latin maxim, central to Natural Law theory. *Lex injusta non est lex* (an unjust law is not a law) This, however, should not be taken to mean that there is no law in SA, all sorts of legal transactions take place every day in this country What the maxim does mean is that it is possible to speak of law having a central (moral) sense Insofar as a country's legal system departs from accepted morality, so it departs from law in its central sense. On this view, then, SA has law, but much of it is not moral.

The positivist legal tradition has no trouble with "evil legal systems " For them, law and morality are completely separate So long as law emanates from the correct source, it doesn't have to be good or moral

For others, such as Ronald Dworkin, Professor of Jurisprudence at Oxford, evil legal systems are much more problematic Dworkin is driven by his theory to concede that in some cases a judge might be obliged to lie This situation might arise in a country such as SA, where it could turn out that the best available account of community morality is that it is, indeed, racist If the judge cannot avoid, on an honest reading of the precedents, this morally repugnant conclusion, then Dworkin thinks it might be right for the judge to lie so as to avoid this conclusion.

It must be hoped that more liberal spirits on the Bench are not cowed by some of the recent setbacks. More than ever, with individual rights under such powerful assault from the Executive, it is important that we do not lose what is left of the Rule of Law. ■

U92—HAIRDRES: OFS/C [1986]
MINIMUM BASIC WEEKLY WAGE RATES

Pressure for clemency for Sharpeville 6

19/2/88 Own Correspondent B/day

LONDON — The British All Party Parliamentary Committee for Southern Africa is putting pressure on the UK government to appeal for clemency for the Sharpeville Six, on death row in Pretoria Central Prison for killing a councillor in 1984

Committee chairman, Conservative MP Ivor Stanbrook said yesterday an appeal for clemency for the six had been signed by 100 British parliamentarians

He said because of the possibility of the six being hanged at any time they "present a most urgent, topical matter"

Relatives of two of the six are in Britain as part of a campaign to muster international support.

Sowetan 24/2/88.

Sharpeville six parents disgusted

FAMILIES of six Sharpeville people condemned to death yesterday said they were disgusted at some anti-apartheid organisations who were using them to promote their own political images.

The families said that although they were willing to support any genuine and honest effort to save the lives of their relatives, who are dubbed as "The Sharpe-le Six," they were being taken to become "show pieces" at meetings by these organisations

The organisations involved were. the Detainees Parents Support Committee, the Azanian National Youth Unity, the Save the Sharpeville Six Campaign Committee, the All Africa Students Action Committee and trade unions

One of the parents, Mrs Leah Mokoena, yesterday told the *Sowetan* that the families were hijacked from their homes by people from the DPSC and forced to attend a meeting in Lenasia, near Johannesburg, last Sunday

She said that happened in spite of the fact that they told the DPSC people they were scheduled to attend a meeting organised by the Save Sharpeville Six committee, Azanyu and others in Sharpeville

"The DPSC officials told us not to attend the Sharpeville meeting because it was organised by unknown people. We are upset because we have discovered that we are now being used as political pawns," Mrs Mokoena said

Mrs Khumalo said they have been driven to accept certain political organisations' ideologies. A t one of the series of meetings that they attended they were ordered to strip off T-shirts that had the emblem of "Save the Sharpeville Six" and a trade union mark

"This is absolutely disgusting We are not engaged in an ideological war. We want our relatives to be saved We will in future be reluctant to attend meetings organised by these people," she said.

The publicity secretary of the Save the Sharpeville Six Committee, Mr Solomzi Selane, has lashed out at the organisation that took the families away on Sunday

A spokesman for the DPSC denied any knowledge of their members forcing the families to attend a meeting in Lenasia The DPSC was not a political organisation, the spokesman said

US plea for Sharpville six

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By BONGANI HLATSHWAYO

SOUTH Africa would further weaken reconciliation efforts if it went ahead and executed the "Sharpeville six", according to the United States Information Services.

It said in a statement that the executions would hamper attempts to negotiate a peaceful political future for South Africa – a process which it supported and was encouraging.

"We consequently hope that the South African government will respond to the clemency appeal with compassion," said the statement.

The call came in the wake of pleas from a number of concerned South Africans who have asked the State President for clemency for the six.

A number of overseas individuals and organisations have also contacted the government with the same plea.

The six, Reginald Sefatsa, Reid Mokoena, Oupa Diniso, Theresa Ramashamola, Duma Khumalo and Francis Don Mokgesi, were sentenced to hang for killing the deputy mayor of the Lekoa Town Council, Kuzwayo Dhlamini.

Two others who stood trial with them, Christiaan Mokubung and Gideon Mokone, were sentenced to eight years' jail each.

The six face the gallows after the Appellate Division earlier this year dismissed appeals against their death sentences.

C/P 3/11/88

Citizen 14/2/88

'Save Sharpeville Six' plea

CP Correspondent

THE Save The Sharpeville Six Committee, an Amsterdam-based international organisation campaigning for the reprieve of the death sentences on six Sharpeville residents following riots in 1984, has launched a worldwide campaign to save their lives.

The campaign follows the dismissal by the Appeal Court of the appeal against their convictions and death sentences.

The six include Theresa Ramashamola, 26, the first woman to be sentenced to death in South Africa for political activities The others are Dan Mokhesi, 28, Duma Khumalo, 26, Moses Diniso, 30, Reid Mokoena, 23, and Mojalefa Safatsa, 32.

The six were sentenced to death for their participation in the rent boycott which inspired riots which erupted in Sharpeville and surrounding townships on September 3, 1984, and resulted in the death of deputy mayor, Khuzwayo Dlamini.– Ano

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Political comment and newsbills by ZB Molefe Headlines and sub-editing by F Alberts, all of 204 Eloff Street Ext, Johannesburg

Anxiety, surprise but mostly fun in the surf — Allan Hendrickse wouldn't have made a ripple at Cape Town's integrated beaches this summer holiday

Picture: GIDEON MENDEL

World campaign to save condemned 6

15-21/1/88

By MONO BADELA

AN international campaign to save the lives of the "Sharpeville Six" now on Death Row in Pretoria Central Prison is to be stepped up during the next four weeks with the launch of a petition to the state president, according to the lawyers representing the six, five men and a woman.

The lawyer for the six told *Weekly Mail* yesterday his office would inaugurate a massive worldwide campaign to collect thousands of signatures to accompany a petition to be presented to State President PW Botha to call upon him to grant clemency to the six.

A memorandum to be presented to the state president will stress that none of the six — convicted of the murder of a Lekoa town councillor — was found by the court to have caused the councillor's death. They were convicted of murder and sentenced to death because the court found they had "common purpose" with the perpetrators of the deed

The lawyer said calls for clemency had come from the governments of the US, Canada, Japan, Australia, Norway, Sweden, Austria, Switzerland and the countries of the European Economic Community.

Pleas for clemency had also been sounded by such groups as the South African Council of Churches, the Southern African Catholic Bishops' Conference, the Congress of South African Trade Unions and the National Council of Trade Unions.

The six were found guilty of murdering Lekoa town councillor, Kuzwayo Jacob Dlamini, on September 3, 1984, the first day of rent protests in the Vaal Triangle that sparked nationwide unrest. Their appeals were turned down early last month.

The six are Majalefa Reginald Sefatsa, 30, Reid Malebo Mokoena, 22, Oupa Moses Diniso, 30, Theresa Ramashamola, 24, Duma Joshua Khumalo and Francis Don Mokgesi, both 29.

The lawyer, who visited the six on Friday, said their spirits were still "very high. They still have a lot of hope ... None of them can accept the fact that their appeals had not succeeded."

Page 83 of the appeal court judgment states: "In the case of these accused it is perhaps debatable whether a causal connection between the conduct of each, individually, and the death of the deceased had indeed not been proved, but in the case of others it must be accepted without doubt, in my opinion, that no such causal connection can be found to have been proved This is particularly obvious in the case of Mokoena and Ramashamola.

"I shall therefore assume for the purposes of my judgement that it has not been proved in the case of any six accused convicted of murder that their conduct had contributed (as a cause) to the death of the deceased."

Later in the appeal court judgement the judge said: "In the present case I am dealing with the position of the six accused who have been conviced of murder solely on the basis of common purpose."

The memorandum also states the accused were implicated mainly by the evidence of a single witness. "For that reason alone his evidence should have been treated with great caution."

Cry clemency

By Patrick Laurence

Star 27/2/88

(252)

An international cry for mercy is echoing in Pretoria's corridors of power as the Sharpeville Six — five men and a woman convicted of murdering a black town councillor — await execution in "death row".

But even if they escape the hangman's noose by an executive act of clemency at the eleventh hour, their trial and conviction will excite debate for a long time to come.

The Sharpeville Six — Mohalefa Sefatsa, Reid Mokoena, Oupa Diniso, Theresa Ramashomola, Duma Khumalo and Francis Mokgesi — were found guilty of murdering Mr Kuzwayo Dlamini, a Lekoa town councillor, outside his home in Sharpeville on September 3 1984

They were part of a crowd of about 100, the remnant of an earlier, larger crowd which had been dispersed by police. Mr Dlamini, who was nicked "Ja-Ja" by his political foes, was one of four councillors in the Vaal Triangle to die at the hands of angry mobs that day

Their conviction, which was upheld by the Appeal Court, aroused discussion in legal circles even before their pending execution became a *cause celebre* in the anti-apartheid lobbies of the world

Mr Dlamini was stoned as he fled from his burning house and then set on fire in his car in the street A post-mortem showed that he could have died either from the blows to the head or from extensive burning Either on its own would have killed him

The Appeal Court accepted that the State had not proved that any of the six had "contributed causually to the death of the deceased", or — to put it more concretely — that any of them had thrown the stone that would have killed him or lit the fire that burnt him to death (he was still alive when placed on the car)

They were found guilty on the doctrine of common purpose. In the words of Mr Justice A S Botha, for the Appeal Court. "Each of these accused shared a common purpose, to kill the deceased, with the mob as a whole, the members of which were intent upon killing the deceased and in fact succeeded in doing so"

The doctrine of common purpose, a concept rooted in English law, is neither new law nor controversial in itself. It depends on the circumstances in which it is applied Solomon Mahlangu, the first post-1976 member of the African National Congress to be executed, was hanged for the 1977 Goch Street killings, even though he was not personally responsible for the death of two men

He was found to have common purpose with two co-conspirators One, "Lucky" Mahlangu, escaped The second, Mondy Motloung, actually fired the fatal shots but sustained severe brain damage in an ensuring struggle and was found unfit to stand trial

What is controversial about the trial of the Sharpeville Six is that the doctrine of common purpose was extended to a whole crowd. The implications of the Appeal Court decision in their case are, legal observers say, far-reaching it means that in riots in the future, an individual member in a crowd may be held liable for any action by any member of the crowd, even if the crowd did not initially assemble with a common purpose

In the same context of crowd behaviour, the Appeal Court rejected a defence counsel submission that there were extenuating circumstances

An expert witness told the original trial court that it was "highly probable" that people "experience de-individuation" when joining a crowd and that "de-individuation will lead to deminished responsibility in much the same way as do the consumption of too much alcohol or great emotional stress"

> The Sharpeville Six are in "death row" after being found guilty of murder on the doctrine of common purpose. In the words of Mr Justice A S Botha, for the Appeal Court: "Each of these accused shared a common purpose, to kill the deceased, with the mob as a whole, the members of which were intent upon killing the deceased and in fact succeeded in doing so."

Mr Justice Botha, however, was unconvinced, concluding that these views were "of a wholly generalised nature" and not specifically related to the Sharpeville Six

A third point concerns the evidence of a State witness which was crucial in the conviction of Khumalo and Mokgesi The witness had reportedly told a defence attorney that he had been coerced into giving evidence against the two accused

When counsel for the defence wanted to cross-examine the witness on his reported statement, the original trial judge refused to allow him to do so.

The Appeal Court upheld the decision, arguing that the privilege of confidentiality between attorney and client is a fundamental principal of the legal system

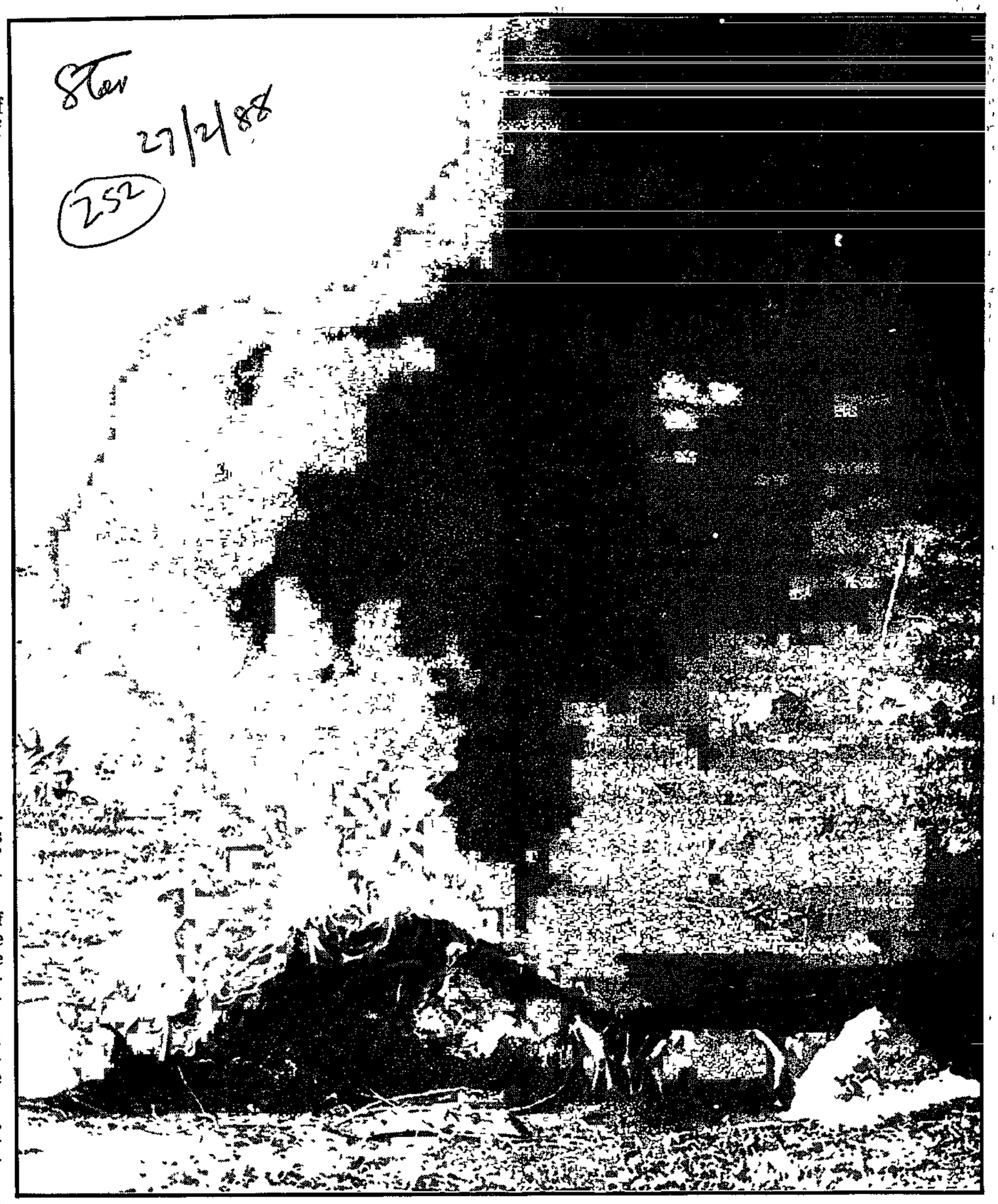
But, some legal observers counter, the principle of attorney-client privilege has to be weighed against another legal principle that when a man's or woman's life is at stake no material evidence should be withheld, even if it is normally safeguarded from disclosure

Moving away from narrower legal considerations, there is another point of controversy the contention that the actions of the six cannot be divorced from the general political turmoil of the time and that they were caught up in deep-rooted grievances against the township council, particularly its decision to impose a rent increase on September 1

To some, their anger and its terrible consequence was rooted in the political upheaval of 1984 and that is a reason to view their case differently

Ironically the pleas for mercy for the six from political activists — they were voiced loud and clear by the South African Youth Congress before it was effectively banned on Wednesday — recall the words of D F Malan when he pleaded for the life of Robey Leibbrandt

"If blood is spilt, then we make the future difficult," Malan said "Blood that is spilt creates a gulf, a deep gulf which in the history of a people like ours might be unbridgeable"



FOUR COUNCILLORS DIE: On September 3 1984 Mr Kuzwayo Dlamini was one of four councillors in the Vaal Triangle to die at the hands of angry mobs. He was stoned as he fled from his burning house and then set on fire.

Families of Sharpeville Six 'hijacked' by political activists, newspaper claims

SATURDAY STAR REPORTER

The families of the six Sharpeville people recently condemned to death have said that they have been "disgusted" by the attempts of some anti-apartheid organisations to exploit their case for their own political ends, according to a report in the *Sowetan* this week

Members of the families told the newspaper that what they had been led to believe would be genuine and honest efforts by certain organisations to save the lives of their relatives, dubbed "the Sharpeville Six", and which they would have wholeheartedly supported, instead turned out to be attempts to use them as "show pieces" at their meetings

The families named the organisations They were the Detainees Parents Support Committee, the Azanian National Youth Unity, the Save the Sharpeville Six Campaign Committee, the All Africa Students Action Committee and trade unions

The *Sowetan* quoted one of the parents, Mrs Leah Mokoena, as claiming that members of the families had been "hijacked" from their homes by people purporting to be from the DPSC and forced to attend a meeting in Lenasia, near Johannesburg. This apparently happened last Sunday

She said, according to the report, that it happened despite the fact that they had told the people claiming to be from the DPSC that they were scheduled to attend a meeting organised by the Save Sharpeville Six Committee, Azanyu and others in Sharpeville

"The DPSC officials told us not to attend the Sharpeville meeting because it was organised by unknown people," she said "We are upset because we have discovered that we are now being used as political pawns"

Mrs Khumalo further claimed that the families had been driven to identify with certain organisations' political ideologies At one meeting, for example, they were ordered to remove T-shirts they were wearing which featured the wording "Save the Sharpeville Six" and a trade union's emblem

"This is absolutely disgusting We are not engaged in any ideological war. We want our relatives to be saved We will in future be reluctant to attend meetings organised by these people," she said

The publicity secretary of the Save the Sharpeville Six Committee, Mr Solomzi Selane, has lashed out at the people who are claimed to have taken the family members away on Sunday

A spokesman for the DPSC has, however, denied any knowledge of the organisation's members forcing relatives of the Sharpeville Six to attend a meeting in Lenasia The DPSC was not a political organisation, the spokesman said

W/Mail 5-11/2/88

FOCUS · CAPITAL PUNISHMENT

(252)

THE LAST GOODBYE

Those who dispassionately endorse the death penalty should spend a few afternoons outside Pretoria Central maximum security section when the bereaved pay their last visits to the doomed. JO-ANN BEKKER did so last week

THE heavy black door slid sideways, seemingly of its own accord, as prisoners wheeled in the last meal for seven condemned men who were hanged last Friday

Several paces away the tin shelters provided for visitors to Pretoria Maximum Security Prison were packed to capacity Two combi-loads of people from Soweto had come to be with a woman whose 27-year-old son was to be hanged

One of the party turned to a white woman who was visiting a friend on death row "Tell me do they really hang them? Don't they take them to make money?"

It is a question asked often The widely-believed myth that condemned prisoners are made to work at the government mint in a permanent form of slavery helps relatives cope with a situation they feel helpless to challenge

It also reflects the sense of unreality which surrounds state executions A period of mourning which begins when the death sentence is handed down ends in a strangely incomplete way for relatives. Condemned men become state property and their families are never permitted to see their bodies.

Death row prisoners are given their execution dates seven days in advance. A sheriff of the supreme court hands out the notices At times he has simultaneously handed out execution notices and notices that a death sentence has been commuted to a term of imprisonment.

Once a prisoner has been given an execution date he or she is taken to the "waiting cells" There are rumours that prisoners are kept naked for their last days to prevent their committing suicide The prisons service deny this and the rumour is further countered by a gruesome suicide last year when Frikkie Muller slit his wrists using a shoe nail the day before he was due to hang

The authorities notify prisoners' families of the execution date For those who live outside Pretoria, where all executions outside the "homelands" take place, a third class rail ticket is enclosed with the official notice.

For many prisoners, the final visits are the first time they have seen their relatives since sentencing, although periods of waiting on death row range from six months to two years while appeals and petitions for clemency are considered.

A pane of glass and bars separate relatives and death row prisoners during the last meetings, which are monitored by a warden

Former security prisoner and author Breyten Breytenbach described the scenes in *Confessions of an Albino Terrorist* "I remember the ritual preparations, the singing of those in 'the pot' (the holding cell near the gallows), the final leave-taking a day before when the weeping and wailing of the mothers and the wives reverberated through the sections, surmounting even those high barriers which separated the bereaved from the doomed, and how the black 'condemns' would regroup in the corridor after those last visits to return singing to 'the pot', the cell of the condemned ones, stamping their feet, rattling their chains (handcuffs, say the prisons) and raising their voices in a rhythm of life and sorrow "

In this situation, visitors say, it is often the prisoner who comforts his relatives Most turn to religion "He was not a Christian before he was sentenced to death Now he believes he will go to another country," a mother said "He said he was prepared He told us not to cry "

Anyone who considers he or she can dispassionately and intellectually endorse the death penalty should spend a few afternoons outside Pretoria Central's maximum security section

Last Thursday, in the sweltering heat, the palpable air of mourning was accompanied by the drone of construction workers building a new prison

While the South African and Prisons Service

The Sharpeville six: Guilt through 'common purpose'

THE "Sharpeville Six" are a hair's breadth from being executed for a murder the Appeal Court accepts they did not actually commit

The Appeal Judges applied the doctrine of "common purpose" They held the six were associated with the crowd which killed Sharpeville Deputy Mayor Khuzwayo Diamini on September 3, 1984, the day rent protests flared into civil unrest So — although Diamini was in fact killed by unknown persons — the six were also guilty of the killing

The trial judge, WJ Human, rejected defence lawyers' arguments that the six could not be sentenced to death on the basis of contradictory evidence by state witnesses — or, in several cases, on the uncorroborated evidence of a single state witness He also rejected the evidence in mitigation, provided by Professor Graham Tyson of the University of the Witwatersrand's psychology department, that mob violence was a result of deprivation and thwarted expectations and mob action led to diminished responsibility

Judge Human described Diamini's death — he was stoned and set alight near his burning car — as "gruesome, medieval and barbaric". He said the "Sharpeville Six" had "shown contempt for peaceful society, law and order"

The Appeal Court upheld the judgement at the end of last year As a last attempt to save the six — who have been on death row since December 1985 — defence lawyers are circulating a petition to the state president, asking for clemency

The following is a breakdown of the evidence on which the five men and one woman — the first woman to be sentenced to death for a crime many see as political — were convicted

Mojalefa Reginald Sefatsa, 30, "accused number one" in the trial, was implicated in the attack on Diamini by the deputy mayor's widow and a state witness identified only as Mr Y Diamini's widow said Sefatsa was about six paces away from her husband when he threw a stone in the councillor's face Mr Y claimed Sefatsa was one of the people who wrestled with Diamini to disarm him of a gun the deputy major had fired into the crowd earlier

Defence lawyers argued Sefatsa could not have performed both acts, which happened almost simultaneously Sefatsa's defence was that he was helping a policeman who was under attack at the time of Diamini's killing However, the policeman told the court he had been attacked much later that day and not in the morning as Sefatsa claimed He could not identify Sefatsa as one of his rescuers

There was also evidence that about two months after the incident Sefatsa led the police to the house of another accused in the trial, Oupa Dimiso, where Diamini's firearm was found

Reid Malebo Mokoena, 22, was convicted solely on the basis of a confession he made to a magistrate while in custody

He claimed he was compelled to make the admission after police subjected him to electric shock torture Sefatsa and another accused, Theresa Ramashamola, gave evidence to support his claims, alleging that they too had suffered police assault while in custody

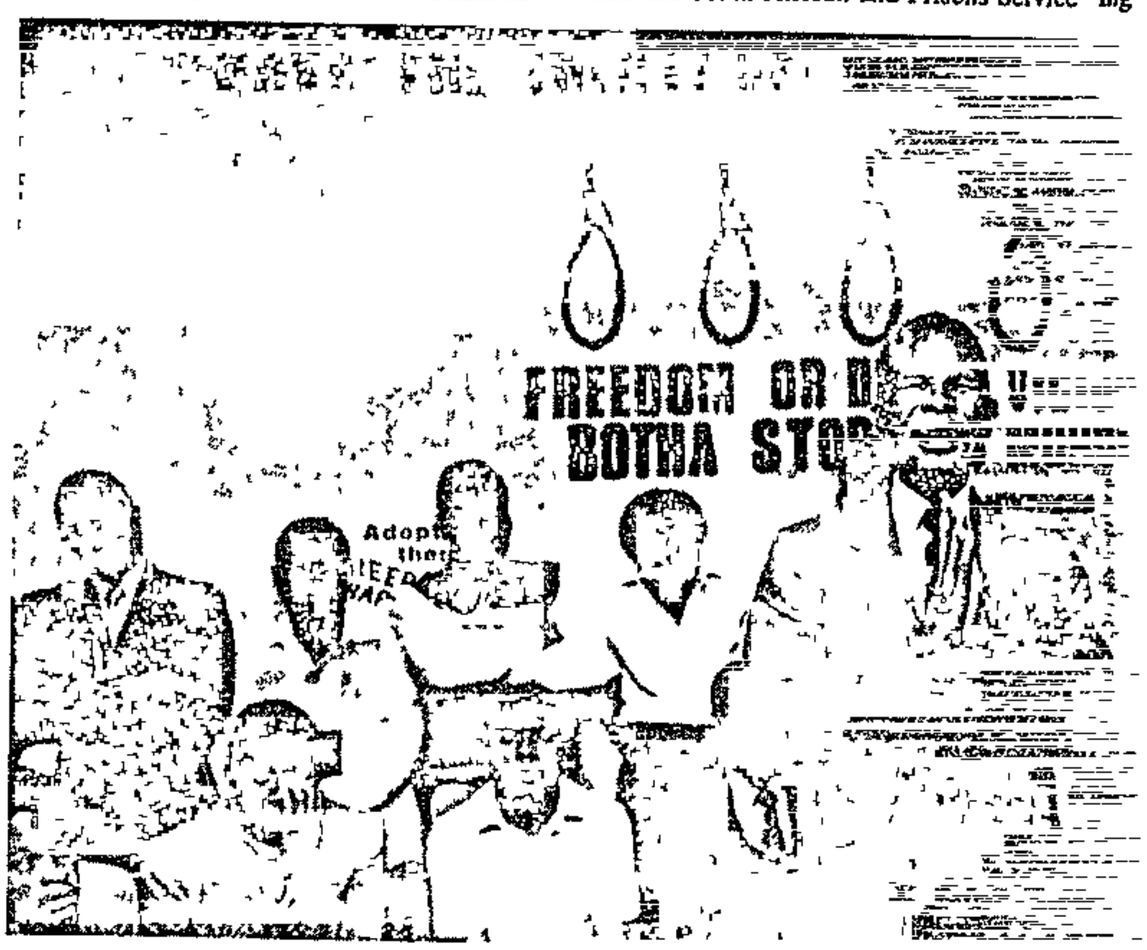
District surgeon I van der Westhuizen told the court he had examined Sefatsa and found his jaw swollen and his ear perforated — injuries consistent with a blow to the ear and side of the face The doctor said Mokoena had muscular pains on the back of his shoulder which were consistent with his allegation of electric shocks However, Judge Human rejected the evidence of assaults because the district surgeon said perforated ears could also result from other causes, such as blowing the nose very hard, and Mokoena's muscular pains could have been caused by having slept badly

In his confession Mokoena admitted throwing one stone at Diamini's back as he lay on his stomach. Defence lawyers argued that Mokoena should be convicted of assault, not murder They pointed out there was no medical evidence to show any injury on Diamini's back A pathologist determined his death had been caused by brain injury, burning or both Thus Mokoena could not possibly have caused Diamini's death

Oupa Moses Dimiso, a 30-year-old man who is married with two children, was sentenced to death on the evidence that police — led to his house by Sefatsa — found Diamini's firearm on his property

Dimiso's explanation was that on September 4, 1984 — the day after Diamini's death — he was on his way home from practising golf when he met three young boys carrying a firearm He took the weapon away from them, found the trigger jammed and, thinking it was broken, put it in his toolbox He forgot about it until two months later when police arrived asking for a gun. He immediately handed it over to them.

His lawyers argued that possession of the weapon was not sufficient evidence that he was one of the people who attacked Diamini They said as Dimiso's explanation was "reasonably possibly true" it should be accepted



An international campaign calls for clemency for the Sharpeville Six. Here,

Theresa Ramashamola, 24, was implicated by Mr Y He claimed when Diamini fired into the crowd Ramashamola shouted. "He is shooting at us, let's kill him"

The witness also said when Diamini was dragged to his burning motor vehicle a woman in the crowd protested and Ramashamola responded by slapping her in the face

Ramashamola's evidence was that she was at home on the morning of September 3 when a crowd forced her to join them When the crowd reached Diamini's home police dispersed the group and Ramashamola was injured by a rubber bullet which struck her head Her wound was treated at a nearby house She emphatically denied rejoining the group which went on to kill Diamini

Duma Joshua Khumalo, 26, a student was implicated by two state witnesses, Mr X and Mr Y, who claimed Khumalo had stoned Diamini's house, made petrol bombs, burnt the deputy-major's house and pushed Diamini's car out of his garage

Khumalo told the court that — although he had been forced to join the crowd — he had assisted a friend who was struck by a bullet during the time of the attack on Diamini

The friend gave evidence confirming Khumalo had taken him to a nearby house for first aid treatment The owner of the house confirmed this and the court accepted the evidence of these two witnesses

The state did not challenge evidence that Khumalo was away from the scene of the attack for 42 minutes — and there was evidence that the crowd had regrouped 15 minutes after the police dispersed them with rubber bullets Despite this the trial judge found the evidence did not prove Khumalo had not rejoined the crowd when it regrouped

There was a legal battle over a statement Mr X made to a partner in the defence attorneys' firm before he was subpoenaed as a state witness Lawyers told the court the effect of the statement was that police had told Mr X to implicate Khumalo and fellow accused Francis Mokhesi

But the judge upheld the rule of confidentiality between attorneys and clients and would not allow the defence lawyers to

flags fluttered in the breeze, a child laughed in the next door shelter, teased by her father Then the white warden escorted a weeping white family out of the prison The group waiting in the shelter rose to meet them The men wept as openly as the women The little girl was passed from relative to relative, until she cried too

The man they visited was hanged with six black men last Friday — at a multi-racial group hanging observers say is rare, although prisons deny this He was Anton Stoop, convicted in October 1986 of murdering and setting alight a black man A psychologist testified Stoop was immature and had been affected by military training where people were trained to kill on reflex The court did not accept this as mitigating factors

On a recent Sunday afternoon a tall, thick-set man waited in the tin shelter to see a relative's son who was appealing against his death sentence The man has been visiting death row for two months, but the stark reality of the place strikes him each time

"The Bible says an eye for an eye and a tooth for a tooth," he says "But we believe, as it says in the Koran, that you will be punished at the day of reckoning "

A softly-spoken woman was also waiting for the black warden —who escorts all visitors of "non-white" prisoners into the jail — to call her

She had come to visit her husband, an ex-policeman who helped hold the bail of prisoners from the "comrades". But, she says, even after he had resigned he was threatened by the comrades" One night he opened fire on his attackers and now he is on death row.

His wife goes over the details of the trial restlessly angry she was not called to give evidence, although she was a witness, angry that her husband was attacked because he had been a policeman, yet received no immunity from prosecution

"My two brothers were also policemen Now they have both resigned " She visits her husband three times a week "and I would go more often if I had money"

Visitors to death row describe the horror of watching families mourn condemned men as if they are already dead

"What can you say? Maybe the rope will break?" asks a relative of a Soweto man hanged last week

Then she returns to the mint story, still not convinced it is a myth "Do you know anyone who works in the mint?" she says ' How can they let people who know how to make money move around freely?"

And she adds "Why won't they let us see his body, according to our custom?" Family members are allowed to see the coffin only once it has been sealed

Some visitors say up to the last minute, many people do not believe they will really hang –

In 1981 prison officials revealed teargas was used to "calm down" a group of prisoners who would not go to the gallows

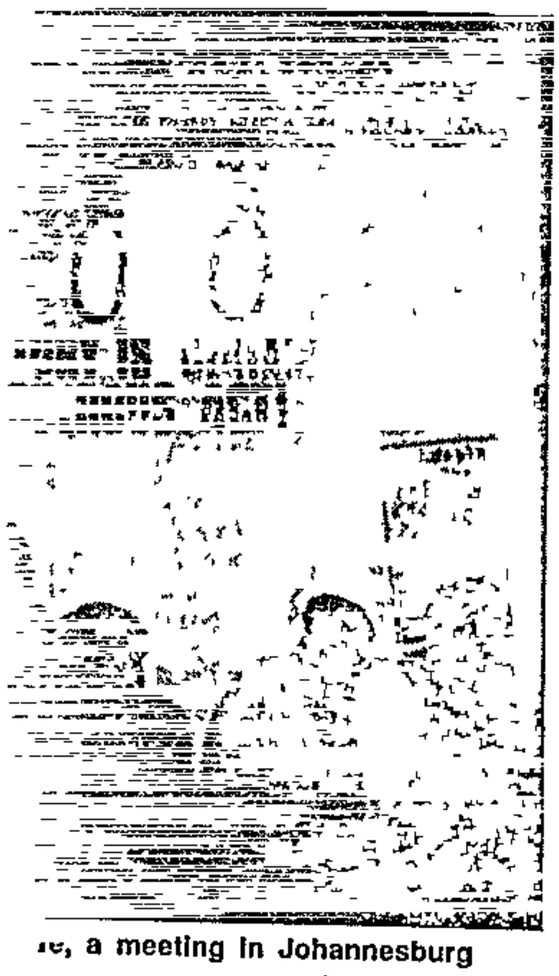
Last Friday morning while alarm clocks were waking many South Africans, a small group of mourners held a short memorial service outside the prison gates

The relatives waiting outside the prison walls received confirmation of the executions And the sheriff of the Pretoria Supreme Court released the names of the seven executed, who had all been sentenced to death for murder between March 1986 and June 1987 — Betsule Xingomungomu Makwakwa, John Rapitsi, Anton Stoop, Zakhele Zulu, Bongani Nocanda, Mlungwana Lamani, Zacharia Masuku

Later that day the heavy door outside Pretoria Maximum opened and black combis emerged, stacked roof-high with wooden coffins

At the weekend, another seven condemned men were told it would be their turn today

> He was not a Christian before he was condemned to die But now he believes he will go to another country He says he is prepared He tells us not to cry



...e, a meeting in Johannesburg

Picture AFRAPIX

cross examine Mr X on the statement Defence lawyers had argued that although the principle of confidentiality was a matter of public interest, affording an accused the opportunity to prove his innocence was of greater public interest in this case

The court did not accept all Mr X's evidence, only that portion which corroborated the evidence of Mr Y.

The last accused, Francis Don Mokhesi, 29, is a member of the Vaal Professional Football Club He was also convicted on the basis of evidence by Mr X and Mr Y They accused him of stoning Dlamini's house, making petrol bombs, ordering the burning of the house and pushing Dlamini's car out of his yard

He was arrested five months after the incident, in February 1985

Mokhesi's defence was that he was nowhere near the scene of the attack He had been injured playing soccer the previous week and as a result of the ankle injury he could walk only with pain and difficulty His team coach and doctor confirmed the injury and their evidence was accepted by the court

A surprising indifference to abolition

NEARLY 20 years ago Helen Suzman introduced a private motion in parliament calling for a commission of inquiry into the abolition of capital punishment. The minister of justice said there was no public demand for abolition He was backed up by the opposition United Party which joined the Nationalists in voting against the motion

Little has changed over the years Abolition is still low on the list of political priorities

Few know, or care, that South Africa uses the death penalty as a routine crime-control measure more frequently than any other country with a Western judicial system

While most countries have abolished the death penalty by legislation, or do not impose it, executions here have risen from an annual average of 21 between 1910 and 1947 to an all-time high of 164 last year

Execution by hanging is mandatory for murder, where the court finds no extenuating circumstances The death penalty can also be imposed for treason, rape, robbery and housebreaking with aggravating circumstances sabotage, kidnapping and "participation in terroristic activities"

In recent years, campaigns have been mounted to save specific individuals facing execution African National Congress member and poet Benjamin Moloise, who was convicted of killing a security policeman, went to the gallows in October 1985 after a 28-month legal battle and in the face of worldwide appeals for clemency

As the list of guerrillas on death row grew, campaigns focused on individuals solidified into a general demand — which was adopted by the Congress of South African Trade Unions and various religious bodies — for ANC guerrillas to be granted Prisoner of War status

The nationwide civil unrest which began in 1984 brought a new category of condemned prisoner to Pretoria Central those caught up in "political" or unrest-related murders of policemen, councillors and suspected informers

Last year the South African Youth Congress headed an alliance of organisations which launched the "Save the 32 Patriots" campaign — to fight for clemency for those convicted of unrest-related crimes

However, in the face of national and international opposition, Wellington Mlamli Mielies, 27, and Moses Mnyanda Jantjies, 22, went to the gallows on September 1 last year They were executed for their part in the murder of Uitenhage councillor Ben Kinikini and five members of his

Helen Suzman no support

family days after police fired on funeral marchers in March 1985, killing 21

By the end of 1987 the number of unrest-related death row prisoners had risen to an estimated 44 Five have already been executed, one, Wantu Silinga of Queenstown, died on death row of tuberculosis None has been reprieved so far

At present, lawyers are circulating a petition to the state president to save the "Sharpeville Six" — sentenced to death for having "common cause" with the killers of Sharpeville's deputy mayor on September 3, 1984 At the end of last year the six lost their appeal against execution

The increase in hangings for politically-inspired crimes — although the state does not distinguish between "political" and "ordinary" criminals — could give new impetus to the stunted abolitionist cause in South Africa

"A number of churches, political organisations and concerned individuals believe it would be more effective to fight for the abolition of the death sentence in its entirety, and not just for politically-related crimes

South Africa's high crime rate — said to be the highest in the ' Western" world — has frequently been linked directly to the socio-economic conditions created by apartheid

In addition, many of the 267 people on death row are there because of murders committed inside prison

By all indications, the road to waging the abolitionist cause will not be smooth And the biggest stumbing block — as parliament showed Suzman in 1969 — is public prejudice

When an afternoon newspaper asked readers to phone in their responses to the "Save the 32 Patriots" campaign last July, most callers said the condemned men should hang

Several human rights lawyers have come out strongly against the death penalty But the president of the Transvaal Law Society said in an interview last September capital punishment should remain "for rape and murder with no extenuating circumstances If the murder happens to have political overtones, that is still murder "

The most common argument for the death penalty is that it acts as a deterrent to potential murderers But there is no documented proof to support this view

There was no increase in crime when England, for example, abolished the death penalty — which, at the beginning of the last century, could be imposed for more than 220 offences, including associating with gypsies, damaging a fishpond, pickpocketing and unlawfully cutting down trees

● To PAGE 16

COMMENT BY SA PRISONS SERVICE

IT is the policy of the SA Prisons Service to approach executions and everything pertaining to it, with the utmost responsibility and respect This attitude stems from a consideration and respect for the circumstances in which the person concerned finds himself and consequently, also the necessary regard for life and death

The prisons service also has a very important reponsibility to the family members of prisoners It will therefore be appreciated that the prisons service is not prepared to contribute to any form of sensationalisation concerning this sensitive matter.

With regard to SA Prisons policy it can be mentioned that close relatives and a number of friends are given the opportunity to attend a memorial service held at the Chapel of the Pretoria Maximum prison (soon after the execution)

Burials of all such prisoners are private and done by the authorities of the Pretoria Maximum Prison and only the officials required attend. The place of burial is furnished to the relatives in order to afford them the opportunity to visit the grave.

At present there are 267 prisoners awaiting execution Of the number 262 are men — eight whites, two Asians, 59 coloureds and 193 Africans — and five are women — one coloured and four Africans.

A surprising local apathy over capital punishment

● From previous page

the effects of capital punishment

But the commission supported this supposedly liberal assertion with the following reasoning "It is common knowledge based on the experience of the courts that, in the mind of the underdeveloped Native but recently brought into contact with Western civilization and ideas, the sanctity of human life is a matter of less concern than it would be to the Western civilized man, and the influence of the fear of death on such a Native's mind may or may not be less than in the case of the average European"

The abolitionists' bottom line — in the words of the late Barend van Niekerk, a South African lawyer who fought the abolitionist cause virtually single-handedly in the 60s — is that "law should not be used as an instrument for the destruction of life"

This is especially true when the chance of judicial errors cannot be excluded There is no documented evidence of a person being executed for another's crime in this country

But Van Niekerk points out "The vast majority of those ending their lives on the Pretoria scaffold do not hail from social groups which would have the means, the knowledge and the persistence to have an executed man's innocence established even if it were at all possible"

There have been documented cases in England, America and elsewhere of executions due to mistaken identity "Unless we assume the preposterous," Van Niekerk wrote in the *South African Law Journal* in 1969, "namely, our legal system has got some unknown factor which puts it on a different footing from other systems as regards the possibility of prosecution in error, we must unashamedly accept that people in the past have paid and that people will continue to pay the supreme penalty for crimes they did not commit."

Most of the people on death row cannot afford legal counsel and are appointed *pro deo* lawyers — usually fresh from law school Capital trials serve as a training ground for most fledgling lawyers

For many, the supreme court trial is the end of the road Leave to appeal to the Appellate Division is frequently denied.

Should this happen — or should the appeal fail — Ministry of Justice officials review the trial record and decide whether to recommend that the state president grant clemency

The president, acting on these recommendations, commutes an estimated 15 to 40 percent of the death sentences passed every year by courts — usually to jail terms of 15 to 20 years

In 1985, 137 people were hanged and 35 reprieved Last year the number of reprieves granted fell to 18

The thorny question of whether the sentences of white judges are racially-coloured — an allegation fiercely denied by judges — remains, although examples of apparent prejudice are less easy to cite than they were in the past.

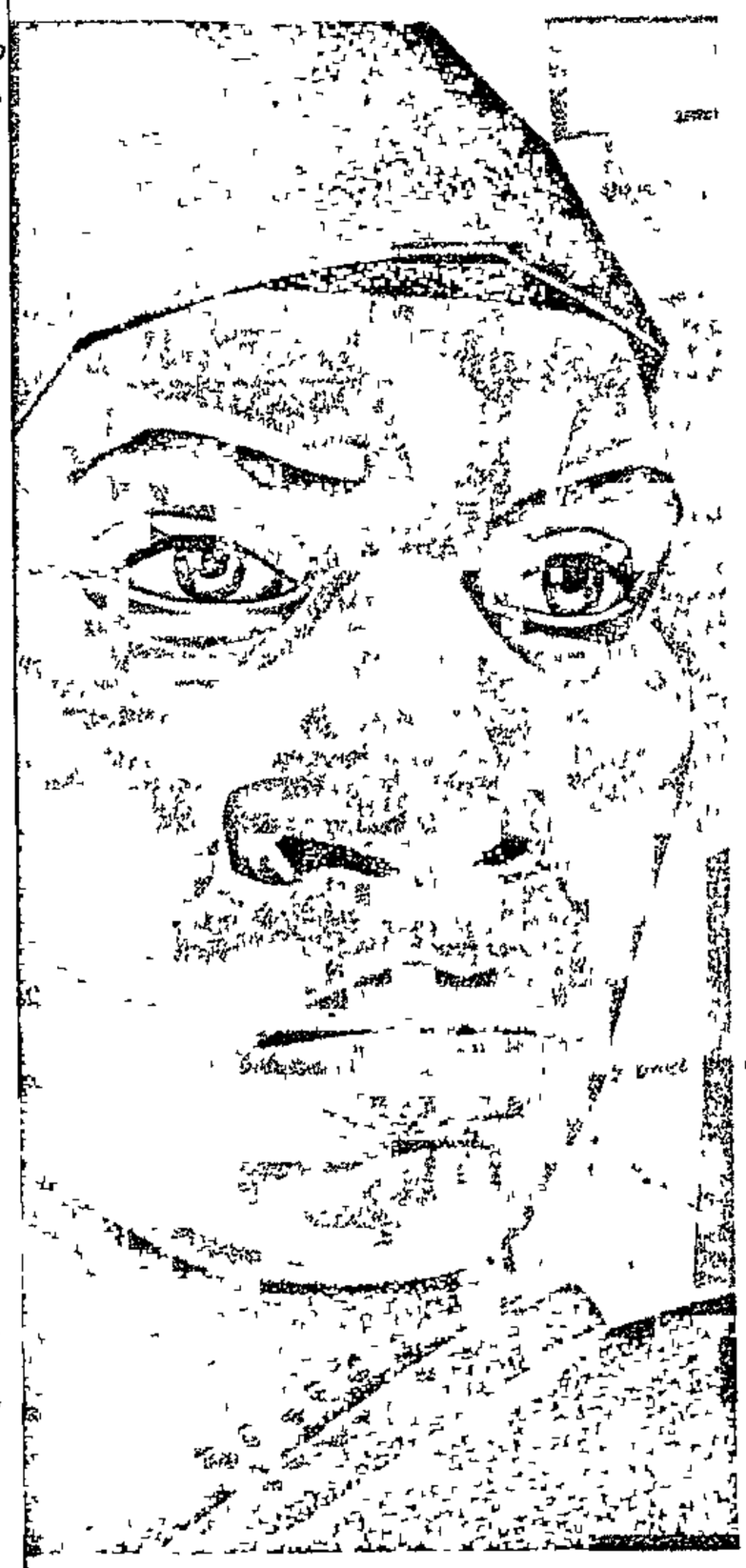
While a minister of justice once bragged that no black man had raped a white woman and escaped the gallows, in recent years a stream of white men have been executed for raping black women Last year a white man was hanged for necklacing a black stranger

Statistically, black people still comprise the largest group of death row prisoners

In March last year, Minister of Justice Kobie Coetsee told parliament 121 people had been hanged in 1986

The total included one coloured woman, 89 black men, 24 coloured men, six white men and one Indian man

He said 44 blacks, 14 coloureds and one Indian had been convicted of crimes against whites



TAG/SOCIOLOGY RESEARCH PROGRAMME*

Address:
Dept of Sociology, University of the Witwatersrand, Jan Smuts Ave, JHB 2001

Phone:
(011) 716 1111

Project Leader:
Professor E. Webster

Membership/Constituency:
Research programme within the sociology department

Aims and Objectives:
To conduct research into health and safety as an industrial relations issue and work study as an industrial relations issue. To date research has concentrated on the organisation of work and safety in the South African gold mining industry

Current Research:
Research into industrial accidents, with a focus on mining accidents

Commissioned research:
Research into industrial health and safety and work study/productivity

Publications:

J. P. Leger	Towards Safer Underground Gold Mining	June 1985	R15

Sowetan 2/3/88

Youth league denial on 'hijacking'

252

THE Lenasia Youth League yesterday denied that families of the Sharpeville Six on death row were hijacked to attend a meeting in Lenasia.

The league was responding to an article that appeared in the *Sowetan* of February 23 in which it was reported that families of the Sharpeville Six had been "hijacked" and taken to a service when another had been arranged.

Our report quoted allegations by the Azanian National Youth Unity and families of the Sharpeville Six and accused the Detainees Parents Support Committee of this.

The DPSC rejected the allegations and yesterday the league issued a statement on the issue and said it was involved and the service which the family members attended was arranged beforehand and they had participated willingly.

The LYL said it hosted a meeting on February 21 to highlight the plight of fellow South Africans on death row and the Save the Patriot Campaign.

The statement said "We wish to state quite emphatically that no-one was hijacked. Two members of the LYL went to Sharpeville to arrange transport for the families of the comrades on death row. This was done with direct consultation with members of the DPSC Vaal branch and family members.

"By 1pm, almost all the family members of the Sharpeville Six had already gathered at a predetermined spot. At this stage, our members were warmly received by the families, as they were not strangers who had come to hijack them (the families).

"After the meeting in Lenasia, the families, members of the public and the Lenasia Youth League met informally over tea," the statement said.

In the statement, the youth league said there were people who wanted to discredit progressive organisations.

dards was handed over to the Cotton Board with effect from 1 November 1987

(bb) The grading of butter and cheese was discontinued with effect from 1 January 1987 and is at present being undertaken by the industry

(ii) (aa) R1 093 000

(bb) 38

(b) Various activities are at present being investigated with a view to privatization The findings will determine if activities can be privatized during 1988

(i) Falls away

(ii) Falls away

Religious objectors alternative service

353 Prof N J J OLIVIER asked the Minister of Manpower

(1) Whether any consideration is being given to allowing religious objectors to perform alternatives service in religious and community organizations if not why not if so (a) what specified changes are contemplated and (b) when will they be introduced

(2) whether he will make a statement on the matter?

The MINISTER OF MANPOWER

(1) Yes

(a) Consideration is being given at present to the possibility of extending the categories of employers which are referred to in section 72E(4) of the Defence Act 1957

(b) and (2) after the negotiations which have to take place in this regard have been completed I shall in due course in consultation with my colleague the Minister of Defence make a statement on this matter

Department of Justice salary parity

358 Mr D J DALLING asked the Minister in the State President s Office entrusted with Administration and Broadcasting Services

(1) In what categories has full parity been achieved in the salaries paid to officers of different race groups in the Department of Justice as at the latest specified date for which information is available,

(2) what is the total number of non-White officers in the said Department who enjoy full parity in salary,

(3) in what categories has full parity not been achieved in the salaries paid to officers of different race groups in that Department,

(4) what is the total number of non-White officers in that Department who do not enjoy full parity in salary,

(5) what progress has been made with the plan to eliminate disparity in salaries?

The MINISTER IN THE STATE PRESIDENT S OFFICE ENTRUSTED WITH ADMINISTRATION AND BROADCASTING SERVICES

Information as on 1 March 1988

(1) All categories

(2) 10 028

(3), (4), and (5) Fall away

Public Service· vacant posts

359 Mr R M BURROWS asked the Minister in the State President s Office entrusted with Administration and Broadcasting Services

(a) How many posts were there in the Public Service as at the latest specified date for which figures are available (b) how many such posts were vacant as at that date and (c) what percentage of persons employed in the Public Service are not White?

The MINISTER IN THE STATE PRESIDENT S OFFICE ENTRUSTED WITH ADMINISTRATION AND BROADCASTING SERVICES

Information as on 30 September 1987

(a) 274 592

(b) 25 742

(c) 59%

State airports, privatization

384 Mr D J N MALCOMESS asked the Minister in the State President s Office entrusted with Administration and Broadcasting Services

Whether the Commission for Administration has completed its investigation into the possible privatization of State airports, if not (a) why not and (b) when is it anticipated that it will be completed if so (i) when was it completed (ii) what were the findings and (iii) what action is to be taken as a result of these findings?

The MINISTER IN THE STATE PRESIDENT S OFFICE ENTRUSTED WITH ADMINISTRATION AND BROADCASTING SERVICES

No investigation into the privatization of State airports was or is being undertaken by the Commission for Administration

(a) Falls away

(b) Falls away

(i) (ii) and (iii) Fall away

Immigrants/emigrants

460 Mr P G SOAL asked the Minister of Home Affairs

How many (a) Whites (b) Coloureds (c) Blacks and (d) Indians (i) immigrated to and (ii) emigrated from the Republic in 1987?

The MINISTER OF HOME AFFAIRS

	(a)	(b)	(c)	(d)
(i)	7 459	146	77	75
(ii)	10 033	651	163	318

Unemployed persons

497 Mr P G SOAL asked the Minister of Home Affairs

(a) How many Black persons were unemployed as at the date of the latest current population survey and (b) what is the date of this survey?

The MINISTER OF HOME AFFAIRS

(a) Applications received

University	White	Coloured	Indian	Black	Other	Total
Orange Free State	524	11	—	4	—	539
Witwatersrand	737	59	157	336	—	1 289
Pretoria	779	—	—	—	—	779
Stellenbosch	711	165	17	1	—	894
Cape Town	634	125	356	291	—	1 406
Natal	—	29	601	329	—	979

(a) 922 000

(b) November 1987

Own Affairs

High/primary schools, computers

30 Mr R M BURROWS asked the Minister of Education and Culture

Whether with reference to his reply to Question No 5 on 8 September 1987 a decision has as yet been reached on the supply of computers to and maintenance of computers in all high and primary schools falling under his control if not why not if so (a) what decision has been reached and (b) what time-table regarding supply has been set?

The MINISTER OF EDUCATION AND CULTURE

(a) and (b) The Directorate of Education Technology is at present finalizing a system for lending educational computer software to schools This service will be in operation by June 1988

The provision of education computer hardware is being handled by the provincial education departments within the limits of the funds that are available A working committee for computers in education is coordinating efforts in this regard

Medical schools· applications for admission

33 Dr M S BARNARD asked the Minister of Education and Culture

How many applications by students in each race group for admission to the first-year course were (a) received and (b) accepted in 1987 at each medical school falling under his Department?

The MINISTER OF EDUCATION AND CULTURE

Murder case: Winnie in public gallery

(252) Star 4/3/88

Five people who allegedly took possession of an AK47 rifle at the home of Mrs Winnie Mandela and left in a car belonging to her went on a shooting rampage which led to the death of two men, according to information provided with an indictment in Johannesburg Regional Court yesterday.

Four men and a woman have been charged with two counts of murder, two counts of attempted murder and other charges relating to the possession of firearms and ammunition, including an AK47 rifle and a Scorpion machine pistol.

They have pleaded not guilty to the charges of murder and attempted murder, but have not yet pleaded on three charges relating to the possession of arms and ammunition

They are Mr Oupa Alex Seheri (33), Miss Priscilla Lindiwe Mkhonza (29), Mr Ben Jabulani Dlamini (27), Mr Charles Bongani Zwane (18), all of Soweto, and Mr Setimbiso Buthelezi (25) of Alexandra.

The group is to be kept in custody to stand trial in the Rand Supreme Court on August 15.

Mrs Mandela and others in the public gallery shouted slogans

In the "summary of substantial facts" attached to the indictment, the State, acting in terms of the Criminal Procedure Act, furnished facts which amplified the charges in the indictment

Although the State is not bound by the summary, which is handed to the accused with the indictment, the summary provides a background to the charges

It alleges that on January 24 1987 a fight broke out between Mr Seheri and a Mr Xola Mokhaula.

Mr Seheri produced a Scorpion machine pistol, but was disarmed. Mr Mokhaula hid the pistol

Mr Seheri and others went to Mrs Mandela's house, where they were allegedly given an AK47 by Mr Buthelezi.

They then went to Mr Mokhaula's home, where Mr Seheri began shooting, killing two people

Azapo, Azacco men are detained

Star 4/3/88

By Michael Tissong

The president of the Azanian People's Organisation (Azapo), Mr Nkosi Molala, and the assistant co-ordinator of the newly formed Azanian Co-ordinating Committee (Azacco), Mr Thabo Sehume, were detained in Pretoria yesterday.

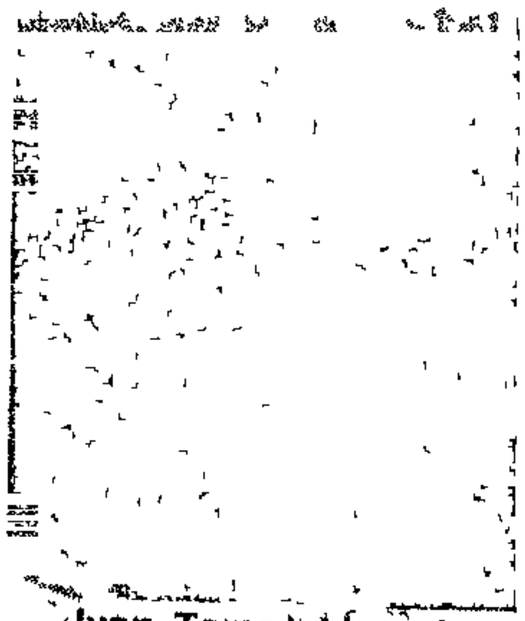
Azacco publicity secretary Mr Jackie Hlapolosa said the men were taken from their homes in Atteridgeville in the early hours

The committee deplored the detentions and the crackdown on Azacco, which came within three days of the organisation being launched

Police were asked to comment yesterday, but at the time of going to press there was no reply

Mr Molala has been detained several times since taking over the presidency of Azapo in 1986 His left eye was injured by a teargas canister when he attended the funeral of people killed during rent raids in White City Jabavu, Soweto, in October 1986

Mr Sehume was detained when the region organised a commemoration for people killed in an anti-rent increase demonstration in Mamelodi on August 26 1986



Ivan Toms at court

Objector Toms gets 630 days

CROSSROADS doctor Ivan Toms, was yesterday sentenced to 630 days imprisonment— the maximum sentence asked for by the state — for refusing to serve in the South African Defence Force.

In summing up, Magistrate AP Kotze said Toms was "not a menace to society. You are the opposite, an asset. It is sad that you went so far to insist on the stand you took."

Kotze told Toms he had the power to terminate his own imprisonment and said he hoped sincerely that he would.

During evidence in mitigation, Pastor Oswald Shivuti, secretary of the Owamboland legislative assembly, told the court he had in six years received 632 complaints of SADF mistreatment of civilians.

Referring to this, Kotze said "I am sure there is substance in the evidence of Mr Shivuti regarding atrocities. If what he says is true, there is more need for you on the border than in Crossroads."

Toms is the first person to be tried for refusing to serve in the SADF since legislation in 1983 provided for a Religious Board of Objection

Earlier Toms, 35, had told the Wynberg Regional Court that he was making "the one choice I have as a white South African"

In South Africa, life was "full of compromises , he said He paid tax which helped to prop up apartheid and he lived in a white group area.

To PAGE 3

Ivan Toms gets 21 months

4-10-2/88 252 4/1/88

From PAGE 1

"But I can choose to go to prison rather than serve in the SADF," he said "I hope that I, and the others who follow me, might in some small way pressurise the government to change the law and provide real alternatives for objectors "

Toms had pleaded not guilty to a charge of failing to render service at 3 Medical Battalion Group, Goodwood, in November last year

Called as the first witness in mitigation, Toms told the court he had entered the SADF for his compulsory two year's national service in 1978 "confused and unhappy but feeling that I had little choice"

A committed Christian, he had non-combatant status and was a full lieutenant In Namibia, he had refused to carry a weapon, but still felt he was "a cog in the military machine"

On completion of his two years, he set up the Empilisweni clinic in Crossroads, and was for some time the only doctor serving a community of some 30 000 people

Toms said his experiences there had crystallised his political views "Up to that point I had an intellectual problem with not going to the army But now I saw the realities of apartheid, under which black people were treated like animals "

Toms did not apply to the Religious Board of Objection "You cannot separate, as the board does, religious from ethical and political objectors," he said

Toms said the board's "alternative" service was punitive. A first-time objector faced six years service in government departments, "which means you are still party to apartheid's implementation"

"I don't want to be excused because I am a Christian, I want to be identified with the many who do not qualify," Toms said

The Right Rev David Russel, Anglican Bishop of Cape Town, told the court there was a "profound theological confusion" in the Defence Act on the question of religious objection It ruled out most Christians, 99 percent of whom would not describe themselves as universal pacifists, who were unwilling to fight under any circumstances

Toms was obeying his Bible and his church by helping to train primary health-care workers in black townships, Russel said

Mamelodi: investigation into deaths on 21 November 1985

89 Mr P G SOAL asked the Minister of Law and Order

(1) Whether, with reference to his reply to Question No 268 on 8 September 1987, the further investigation by the South African Police into the deaths of persons killed in Mamelodi on 21 November 1985 has been completed, if not, why not, if so, (a) when, (b) what were the findings and (c) what action has been taken as a result of this investigation,

(2) whether he will make a statement on the matter?

The MINISTER OF LAW AND ORDER

(1) Yes

(a) 27 October 1987

(b) and (c) The Attorney-General instructed that an inquest should be held

(2) No

Accident at Halt Road, Elsies River: member convicted

90 Mr P G SOAL asked the Minister of Law and Order

(1) Whether with reference to his reply to Question No 5 on 28 July 1987 any departmental action has been taken against the member of the South African Police convicted of culpable homicide as a result of an accident in Halt Road Elsies River on or about 19 August 1986 if not why not if so (a) what action and (b) when

(2) whether he will make a statement on the matter?

The MINISTER OF LAW AND ORDER

(1) No Because evidence could not be found that the member concerned made himself guilty of any contravention of the Police Act, 1958 (Act 7 of 1958), or the Regulations promulgated by virtue of the Act

(a) and (b) Fall away

(2) No

Treasury: remuneration paid

304 Mr A E NOTHNAGEL asked the Minister of Finance †

(1) What total amount (a) was spent in each specified financial year from 1982-83 up to and including 1986-87 and (b) is it estimated will be spent in the 1987-88 financial year on (i) wages and salaries, (ii) bonuses (iii) housing subsidies (iv) contributions to medical schemes and funds (v) contributions to pension schemes and funds, (vi) motor-car schemes (vii) leave and retirement gratuities and (viii) other forms of direct and indirect expenditure, in respect of persons whose remuneration is paid from the Treasury,

(2) what percentage of the (a) total State revenue (b) total State expenditure and (c) gross domestic product does the total of the above-mentioned expenditure comprise in each of these financial years?

The MINISTER OF FINANCE

(1) (a) and (b)

	1982/83 R 000	1983/84 R'000	1984/85 R'000	1985/86 R 000	1986/87 R 000	1987/88 R 000
(i) Wages and salaries	3 964 882	4 561 731	5 876 099	6 478 157	7 905 088	9 715 013
(ii) Bonuses	216 341	255 597	341 379	277 375	411 270	594 971
(iii) Housing subsidies	92 447	158 444	277 190	339 294	392 931	449 069
(iv) Contributions to medical schemes and funds	71 643	92 348	123 031	173 525	278 462	215 254
(v) Contributions to pension schemes and funds	701 170	764 084	998 134	1 132 011	1 552 090	1 842 701
(vi) Motor-car schemes	8 284	10 817	11 005	16 487	15 582	21 573
(vii) Leave and retirement gratuities	36 076	34 585	57 673	61 238	73 684	109 084

(viii) Other forms of direct and indirect expenditure	249 214	287 479	345 118	394 487	378 439	474 017
TOTAL	5 340 057	6 165 085	8 029 629	8 875 574	11 007 546	13 421 682

(2)

	1982/83 R'000	1983/84 R 000	1984/85 R'000	1985/86 R'000	1986/87 R'000	1987/88 R'000
(a) Total State Revenue	28 8%	28 9%	31,9%	28,7%	31,6%	33,5%
(b) Total State Expenditure	26 7%	26,2%	28 7%	26 1%	26,4%	27,9%
(c) Gross Domestic Product	6 5%	6 7%	7,4%	7,1%	7,5%	7,6%

Remark In terms of Resolution no 2, Second Report of the former Select Committee on Public Accounts 1981 (2), detailed information regarding spending is no longer submitted to the Treasury and is therefore not available at a central point The only source from which the information can properly be obtained, is the control pay sheets In terms of Archive instructions these documents are kept for three years only, after which they are destroyed Departments no longer have all the information at their disposal and calculations had to be made for the various items reflected in the question Consequently the Treasury cannot unconditionally endorse the correctness of the information

Sentenced prisoners deaths from natural causes

332 Mr D J DALLING asked the Minister of Justice

(1) How many sentenced prisoners died of natural causes in 1987,

(2) how many of these deaths were due to pneumonia?

The MINISTER OF JUSTICE

(1) and (2) Of the one hundred and fifty (150) sentenced prisoners who died from natural causes during 1987 eighteen (18) died of pneumonia

Offences against security of State: sentences served

335 Mr D J DALLING asked the Minister of Justice

How many (a) males and (b) females were serving sentences in 1987 for offences against the security of the State which exceeded (i) 10 years, (ii) 5 years and (iii) 2 years?

The MINISTER OF JUSTICE

(a) (i) 145

(ii) 95

(iii) 48

(b) (i) 1

(ii) 7

(iii) 3

Awaiting-trial prisoners in custody

345 Mr D J DALLING asked the Minister of Justice

What was the average number of awaiting-trial prisoners in custody on the last day of each month in 1987?

The MINISTER OF JUSTICE

The figures concerning awaiting-trial prisoners who were incarcerated in South African prisons on the last day of each month during 1987, were as follows

31 January 1987 — 21 829
28 February 1987 — 21 373
31 March 1987 — 20 668
30 April 1987 — 20 429
31 May 1987 — 20 501
30 June 1987 — 19 030
31 July 1987 — 18 603
31 August 1987 — 18 609
30 September 1987 — 17 727
31 October 1987 — 18 450
30 November 1987 — 19 508
31 December 1987 — 20 096

Crimes against security of State: sentences served

346 Mr D J DALLING asked the Minister of Justice

How many (a) White (b) Coloured (c) Asian and (d) Black persons were serving sentences for crimes against the security of the State as at

the latest specified date for which figures are available'

The MINISTER OF JUSTICE

On 31 December 1987 the figures were as follows

(a) Whites 10

(b) Coloureds 11

(c) Asians 5

(d) Blacks 282

Crimes against security of State sentences served

351 Mr S S VAN DER MERWE asked the Minister of Justice

How many South West African/Namibian prisoners in South African prisons were serving sentences for crimes against the security of the State as at the latest specified date for which figures are available?

The MINISTER OF JUSTICE

None

I also wish to refer the hon member to my reply to question No 30 and No 210 of 18 March 1986 and 23 February 1987, respectively

Land and Agricultural Bank: employees

635 Mr D J N MALCOMESS asked the Minister of Finance

With reference to his reply to Question No 84 on 17 February 1988 (a) how many (i) White (ii) Black (iii) Indian and (iv) Coloured persons were employed by the Land and Agricultural Bank (b) how many loans had been issued to employees in respect of each race group (c) how many loans of (i) over R100 000 and (ii) between R50 000 and R100 000 had been made in respect of each race group and (d) what rate of interest was being charged in respect of these loans as at 31 December 1987?

The MINISTER OF FINANCE

(a) (i) 1 010

(ii) 135

(iii) None

(iv) 27

(b) Whites — 511
Blacks — 7
Indians — None
Coloureds — 11

(c) (i) Whites — 1
Blacks — None
Indians — None
Coloureds — None

(ii) Whites — 297
Blacks — None
Indians — None
Coloureds — None

(d) 3%

QUESTIONS UNDER NAME OF MEMBER

D/D 5/3/88

Order keeps soldiers from army detention

252

Daily Dispatch Correspondent

CAPE TOWN — The Minister of Defence was yesterday restrained from placing three soldiers — convicted by a court martial of conspiring to disclose information of a military nature to the End Conscription Campaign (ECC) — in detention barracks to serve an 18 month sentence pending a review of the sentences

In an urgent application in the Supreme Court brought by Mr Hein Monnig, Mr Peter Pluddeman and Mr Desmond Thompson late yesterday afternoon, an interim order was granted restraining the Minister of Defence, the Officer Commanding, Western Province Command, Brigadier A K de Jager (in his capacity as the confirming authority in respect of the court martial) and Colonel M Dempers (in his capacity as president of the court martial) from executing the sentence pending review proceedings

In an affadivit before the court, Mr Monnig said on February 4 this year he and two other national servicemen (Mr Pluddeman and Mr Thompson) were convicted by military court of conspiring to disclose information of a military nature to the ECC and sentenced to 18 months each in a military detention barracks

The verdict was "palpably incompetent" in that the "information" in question did not constitute information of the protected kind contemplated by the Defence Act, but either evidence of operations conducted by the SADF against the ECC

Copies of pamphlets produced at the castle (ostensibly produced by the Anti-Liberal Alliance) were attached to his affidavit

One pamphlet accused the ECC of assisting Mkhonto we Sizwe (the military wing of the banned ANC) by attempting to neutralise the SADF

Although he was not a member of the ECC, he understood it to be a lawful organisation which propagated "the adoption of alternatives to compulsory military service

Mr Monnig said he intended seeking a review of both his conviction and sentence

He added that Col Dempers exhibited "gross bias and partiality" in his judgment on sentence

"Notwithstanding the narrow ambit of the single charge on which I was convicted, and his acceptance of our personal integrity in his principal judgment, he described our actions in emotionally charged terms as 'verfoeilik' and us as 'mutineers" and 'backstabbers" of what he termed 'die volksweermag' "

While the prosecution had sought a lesser sentence, he was sentenced to 18 months in detention barracks which would involve incarceration at either Boksburg or Windhoek, far from legal advisers, Mr Monnig said

It was also a matter of "considerable anguish" to his wife who had suffered acutely under the strain and was under medical treatment

"Detention barracks, unlike imprisonment, further involves a directly punitive regime Hard labour is a feature as is incarceration with drug offenders," he said

Granting the interim order, Mr Justice King said a person who has been convicted should not have to start a sentence until he has exhausted all avenues of appeal

"That is consistent with the fundamental principles of freedom of movement and the right not to have those principles interfered with "

The hearing was adjourned to March 21

Efficiency Officer	1	1	0	0	0	0	0	0	1	0	1	0	3	1	2
Physiotherapist	7	5	3	1	9	6	1	0	0	0	4	1	24	13	11
Medical Technologist	30	9	0	0	2	1	0	0	0	0	5	1	37	11	26
Health Inspector	0	0	1	1	0	0	0	0	0	0	0	0	1	1	0
House-keeper/ House Mother	2	1	0	0	0	0	0	0	0	0	0	0	2	1	1
Engineer	24	22	9	6	5	3	2	0	3	1	6	4	49	36	13
Clinical Psychologist	2	0	1	1	0	0	1	1	0	0	0	0	4	2	2
Agricultural Officer	14	8	41	21	9	7	1	1	21	5	6	4	92	46	46
Land Surveyor	10	9	3	2	1	0	0	0	1	0	1	0	16	11	5
Mortuary Attendant	1	1	0	0	0	0	0	0	0	0	0	0	1	1	0
Magistrate	36	34	8	7	4	3	3	3	8	6	4	3	63	56	7
Medical Officer	270	189	47	38	42	36	12	4	11	4	32	25	414	296	118
Medical Superintendent	27	20	14	10	9	4	2	1	1	1	3	3	56	39	17
Medical Specialist	81	59	15	10	19	13	2	1	0	0	8	6	125	89	36
Medical Intern	46	43	1	1	16	9	0	0	0	0	8	3	71	56	15
Social Worker	0	0	0	0	0	0	0	0	1	1	1	1	2	2	0
Nature Conservator	12	5	11	9	6	3	1	1	6	2	9	6	45	26	19
Industrial Technician	50	18	23	8	1	0	7	1	12	1	26	3	119	31	88
Operator Sewerage and Water Purification	0	0	0	0	0	0	0	0	0	0	1	0	1	0	1
Personnel Officer	1	0	2	1	0	0	0	0	0	0	0	0	3	1	2
Police Functional Staff	20	18	20	16	8	6	9	6	72	48	18	9	147	103	44
Programmer	7	4	0	0	1	1	1	1	2	1	2	0	13	7	6
Project Superintendent	0	0	0	0	0	0	0	0	3	2	1	0	4	2	2
Personal Secretary	1	1	1	1	0	0	1	1	7	6	2	1	12	10	2
Radiographer	16	10	1	1	1	1	1	0	1	1	7	3	27	16	11
Accountant	20	15	3	3	1	1	4	3	21	9	14	4	63	35	28
Legal Adviser	0	0	1	1	1	0	0	0	1	0	1	0	4	1	3
Secretary (Head of Department)	8	6	6	6	6	6	5	5	6	6	8	7	39	36	3

Security Officer	0	0	0	0	0	0	0	0	0	0	1	0	1	0	1
Speech Therapist	0	0	0	0	0	0	0	0	0	0	1	0	1	0	1
Liaison Officer (and Media Officer)	0	0	0	0	0	0	1	0	2	1	1	0	4	1	3
Town and Regional Planner	1	0	0	0	0	0	0	0	1	0	1	0	3	0	3
Regional Magistrate	0	0	0	0	1	1	0	0	0	0	0	0	1	1	0
Dentist	18	8	6	3	5	3	2	1	1	0	5	2	37	17	20
Dental Technician	2	1	0	0	0	0	0	0	0	0	0	0	2	1	1
Dental Therapist	0	0	0	0	0	0	1	0	0	0	0	0	1	0	1
Technical Assistant	5	0	0	0	0	0	0	0	0	0	0	0	5	0	5
Typist/Data Typist	2	2	0	0	0	0	1	1	4	4	6	1	13	8	5
Professional Officer	61	29	32	23	5	4	2	0	12	4	15	11	127	71	56
Veterinarian	7	4	5	5	6	1	0	0	1	1	1	0	20	11	9
Animal Health Officer	7	3	2	1	2	1	0	0	1	1	3	1	15	7	8
Traffic Inspector	0	0	2	2	2	2	1	0	0	0	2	1	7	5	2
Nursing Staff	15	11	0	0	2	2	13	1	1	1	5	3	36	18	18
Catering Service Supervisor	1	0	0	0	0	0	0	0	0	0	0	0	1	0	1
Foreman	20	13	24	18	0	0	0	0	0	0	1	1	45	32	13
Laundry Supervisor	2	1	1	1	0	0	0	0	0	0	0	0	3	2	1
Works Inspector	0	0	9	9	0	0	4	3	3	3	7	2	23	17	6
Total	1 158	780	462	338	211	147	116	56	315	204	376	180	2 638	1 705	933
CS Educator	289	227	175	153	227	187	123	110	109	91	151	120	1 074	888	186

Medical doctors national service

278 Dr M S BARNARD asked the Minister of Defence

How many White male medical doctors performed national service in 1987?

The MINISTER OF DEFENCE

663

Functional/legal training: courses completed

329 Mr D J DALLING asked the Minister of Justice

252

How many (a) White, (b) Coloured, (c) Indian and (d) Black persons (i) attended and (ii) successfully completed courses in (aa) functional and (bb) legal training provided by the legal training branch of his Department in 1987?

The MINISTER OF JUSTICE

(aa) FUNCTIONAL TRAINING

(a) Whites
(i) 93 (ii) 93

(b) Coloureds
(i) 5 (ii) 5

(c) Indians
(i) 0 (ii) 0

(d) Blacks
(i) 105 (ii) 105

(bb) LEGAL TRAINING

(a) Whites
(i) 425 (ii) 333

(b) Coloureds
(i) 5 (ii) 4

(c) Indians
(i) 7 (ii) 7

(d) Blacks
(i) 116 (ii) 113

Conditions imposed on universities: report of task group

364 Mr R M BURROWS asked the Minister of National Education

(1) Whether, with reference to his reply to Question No 27 on 15 September 1987, he will make available to the public the report of the task group appointed to assess and comment on submissions made by universities on certain draft conditions proposed to be imposed on universities, if not why not, if so, (a) when and (b) in what manner,

(2) (a) what were the final decisions taken on these conditions and

(b) when will they be implimented?

The MINISTER OF NATIONAL EDUCATION

(1) No

The report is an internal and classified document

(a) and (b) fall away

(2) (a) The final decision to lay down these conditions in an amended form was taken by the Education Ministers after the matter had been discussed by Cabinet and the Ministers' Councils

(b) The conditions in the present case came into effect on 19 October 1987

Cabin attendants

368 Mr D J N MALCOMESS asked the Minister of Transport Affairs

How many applications to train as air hostesses were received in 1987 from (i) Whites, (ii) Coloureds, (iii) Asians and (iv) Blacks and (b) how many of these applications were successful in respect of each race group?

The MINISTER OF TRANSPORT AFFAIRS

(a) Statistics regarding the applications are not kept and it is not readily available It will take much time and expense to gather such information

(b) No cabin attendants, irrespective of race, were employed during 1987

The designation of air hostess has been changed to cabin attendant

Blue Train passengers

371 Mr D J N MALCOMESS asked the Minister of Transport Affairs

(1) How many passengers travelled on the Blue Train in 1987,

(2) whether all such passengers paid the full fair, if not, how many paid the full fare in that year?

The MINISTER OF TRANSPORT AFFAIRS

(1) 16 926

(2) No 16 772, i e 99 per cent

Weather conditions: flights diverted/delayed

373 Mr D J N MALCOMESS asked the Minister of Transport Affairs

How many scheduled South African Airways flights were (a) diverted and (b) delayed as a result of weather conditions at (i) Port Elizabeth, (ii) Cape Town, (iii) Durban and (iv) East London in 1987?

The MINISTER OF TRANSPORT AFFAIRS

	(i)	(ii)	(iii)	(iv)
(a)	46	2	3	16
(b)	10	13	17	7

Train journeys Government-subsidized fares

374 Mr D J N MALCOMESS asked the Minister of Transport Affairs

What percentage of (a) first-class and (b) second-class long-distance rail passengers travelled at Government-subsidized fares in 1987?

The MINISTER OF TRANSPORT AFFAIRS

For the financial year 1986/87,

(a) 5,8 per cent
(b) 8,3 per cent

Information concerning train journeys undertaken by military personnel is not included as such information is classified Particulars of the number and class of journeys undertaken by Parliamentarians and other dignitaries are not readily available

Commuter services total loss incurred

376 Mr D J N MALCOMESS asked the Minister of Transport Affairs

What was the total loss incurred by the South African Transport Services on commuter services in the (a) Johannesburg/Pretoria, (b) Cape Town/Peninsula, (c) Port Elizabeth/Uitenhage and (d) Durban/Pinetown areas in the 1987/88 financial year?

The MINISTER OF TRANSPORT AFFAIRS

The total estimated loss in respect of each of the areas is as follows

R-million

(a) 374

(b) 167

(c) 9

(d) 138

Artisans/apprentices employed by SATS

380 Mr D J N MALCOMESS asked the Minister of Transport Affairs

How many (a) White, (b) Coloured, (c) Black and (d) Indian (i) artisans and (ii) apprentices were employed by the South African Transport Services as at the latest specified date for which information is available?

The MINISTER OF TRANSPORT AFFAIRS

As at 16 February 1988

(a) (i) 11 166
(ii) 1 885

(b) (i) 35
(ii) 21

(c) (i) 9
(ii) 5

(d) (i) 10
(ii) 11

Overseas countries' cost

383 Mr D J N MALCOMESS asked the Minister of Foreign Affairs

Whether any members of Parliament were invited by his Department in 1987 to visit any overseas countries, if so, (a) how many, (b) what are their names, (c) which countries did they visit in each case, (d) what was the purpose of each visit and (e) what was the total cost to the State, including the cost of air travel, of these visits?

The MINISTER OF FOREIGN AFFAIRS

No if by "overseas countries" the hon member means countries which are across the sea

(a), (b), (c), (d), (e) fall away

Abuse of air-ticket privileges at Jan Smuts Airport: police investigation

385 Mr D J N MALCOMESS asked the Minister of Transport Affairs

(1) Whether, with reference to his reply to Question No 10 on 28 July 1987, the police investigation into the alleged abuse of air-ticket privileges at Jan Smuts Airport has been completed, if so, (a) what were the findings and (b) what action is to be taken as a result of these findings,

(2) whether any departmental action has been taken in connection with this matter, if not, why not, if so, what action,

(3) whether he will make a statement on the matter?

The MINISTER OF TRANSPORT AFFAIRS

(1) Yes
(a), (b) and (2) The Senior State Prosecutor, Kempton Park, refused to prosecute and recommended departmental action It is anticipated that the departmental investigation will be completed at the end of March 1988

(3) No

Hansard

HOUSE OF ASSEMBLY

†Indicates translated version

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For written reply

General Affairs

Persons with legal qualifications employed in professional capacities

10 Mr D J DALLING asked the Minister of Justice

(a) How many persons with legal qualifications are employed by his Department in professional capacities in the Republic, excluding the self-governing territories, (b) how many such persons are (i) White, (ii) Black, (iii) Coloured and (iv) Indian, (c) (i) in which positions and (ii) where are these (aa) Black, (bb) Coloured and (cc) Indian persons employed and (d) in respect of what date is this information furnished?

The MINISTER OF JUSTICE

(a) 2 373

(b) (i) 2 264

(ii) 24

(iii) 52

(iv) 33

(c) (i) (aa) State Prosecutor (24)

(bb) State Prosecutor (48)
Magistrate (2)
Estate Controller (2)

(cc) State Prosecutor (23)
Magistrate (8)
Assistant State Attorney (1)
State Advocate (1)

(ii) (aa) East London (1)
Pretoria (2)
Pretoria North (1)
Pietermaritzburg (2)
Johannesburg (5)
Verulam (1)
Springs (2)
Wynberg (2)
Stanger (2)
Alberton (1)
Durban (1)
Kempton Park (1)
Krugersdorp (1)
Soshanguve (1)
Roodepoort (1)

(bb) Malmesbury (2)
Cape Town (3)
Bellville (3)
Wynberg (21)
Paarl (2)
Worcester (1)
Port Elizabeth (9)
Vanderbijlpark (1)
Johannesburg (3)
Alberton (1)
Roodepoort (1)
Randfontein (1)
Knysna (1)
Goodwood (2)
Pretoria (1)

(cc) Verulam (8)
Chatsworth (7)
Durban (4)
Scottburgh (1)
Eshowe (1)
Ladysmith (1)
Pietermaritzburg (3)
Pinetown (2)
Johannesburg (3)
Brakpan (1)
Stanger (2)

(d) 1 March 1988

Legal courses: persons participated

11 Mr D J DALLING asked the Minister of Justice·

(a) How many persons participated in legal training courses organized by his Department in 1987, (b) how many such persons were (i) White, (ii) Black, (iii) Coloured and (iv) Indian and (c) in which courses did these (i) Black, (ii) Coloured and (iii) Indian persons participate?

The MINISTER OF JUSTICE

(a) 553

(b) (i) 425

(ii) 116

(iii) 5

(iv) 7

(c) (i) Magistrate — Criminal (49)

	Prosecutor	(35)
	B Iuris	(5)
	Diploma Iuris	(3)
	Civil Magistrate	(20)
	Regional Magistrate	(4)
(ii)	Prosecutor	(1)
	B Iuris	(3)
	Diploma Iuris	(1)
(iii)	Magistrate — Criminal	(1)
	Prosecutor	(4)
	B Iuris	(1)
	Diploma Iuris	(1)

Regional court prosecutors/prosecutors in RSA

12 Mr D J DALLING asked the Minister of Justice

(a) How many persons in the Republic, excluding the self-governing territories, hold the position of (i) regional court prosecutor and (ii) prosecutor, (b) how many such persons are (i) White, (ii) Black, (iii) Coloured and (iv) Indian, (c) in which magistrates' courts are these (i) Black, (ii) Coloured and (iii) Indian persons employed and (d) in respect of what date is this information furnished?

The MINISTER OF JUSTICE

(a) (i) 200

(ii) 728

(b) (i) 833

(ii) 24

(iii) 48

(iv) 23

(c) (i)	East London	(1)
	Pretoria	(2)
	Pretoria North	(1)
	Pietermaritzburg	(2)
	Johannesburg	(5)
	Verulam	(1)
	Springs	(2)
	Wynberg	(2)
	Stanger	(2)
	Alberton	(1)
	Durban	(1)
	Kempton Park	(1)
	Krugersdorp	(1)
	Soshanguve	(1)
	Roodepoort	(1)
(ii)	Malmesbury	(1)
	Cape Town	(2)
	Bellville	(3)
	Wynberg	(20)
	Paarl	(2)
	Worcester	(1)
	Port Elizabeth	(9)
	Vanderbijlpark	(1)
	Johannesburg	(3)
	Alberton	(1)
	Roodepoort	(1)
	Randfontein	(1)
	Knysna	(1)
	Goodwood	(2)
(iii)	Verulam	(5)
	Chatsworth	(4)
	Durban	(4)
	Scottburgh	(1)
	Eshowe	(1)
	Ladysmith	(1)
	Pietermaritzburg	(2)
	Pinetown	(2)
	Johannesburg	(2)
	Brakpan	(1)

(d) 1 March 1988

Regional court magistrates/magistrates in RSA

13 Mr D J DALLING asked the Minister of Justice

(a) How many persons in the Republic excluding the self-governing territories, hold the position of (i) regional court magistrate and (ii) magistrate, (b) how many such persons are (i) White, (ii) Black, (iii) Coloured and (iv) Indian, (c) in which magistrates' courts are these (i) Black, (ii) Coloured and (iii) Indian persons employed and (d) in respect of what date is this information furnished?

The MINISTER OF JUSTICE

(a) (i) 141

(ii) 753

(b)	Regional Magistrate	Magistrate
	(i) 141	(i) 743
	(ii) 0	(ii) 0
	(iii) 0	(iii) 2
	(iv) 0	(iv) 8

(c) (i), (ii) and (iii) Fall away

(i) Falls away

(ii) Wynberg
Malmesbury

(iii)	Stanger	(2)
	Verulam	(3)
	Chatsworth	(3)

(d) 1 March 1988

Religious objectors: alternative service

31 Mr P G SOAL asked the Minister of Manpower

(1) (a) How many national servicemen who had been granted the status of religious objectors were placed in alternative service in 1987, (b) in which (i) Government, (ii) provincial, (iii) semi-Government and (iv) local government departments were these national servicemen placed and (c) how many were placed in each such department,

(2) whether any of these departments (a) refused, and/or (b) were not allowed, to place national servicemen, if so, (i) which departments and (ii) why, in each case?

The MINISTER OF MANPOWER

(1) (a) 240 as at 18 February 1988

(b) (i) and (c)

Department of	Agricultural Economics and Marketing	6
	Environment Affairs	17
	Finance	1
	Manpower	9
	National Education	4
	National Health and Population Development	6
	Public Works and Land Affairs	6
	Water Affairs	9
House of Assembly	Department of Agriculture and Water Supply	4
	Department of Budgetary and Auxiliary Services	1
	Department of Education and Culture	3
	Department of Health Services and Welfare	6
House of Representatives	Department of Health Services and Welfare	2

(ii) and (c)

Cape Provincial Administration	15
Natal Provincial Administration	16
Provincial Administration of the Orange Free State	4
Transvaal Provincial Administration	34

(iii) and (c) None

(iv) and (c)

Municipality of	Alexandra	1
	Amanzimtoti	3
	Ballitoville	1
	Bendigo	3
	Benoni	5
	Boksburg	1
	Cape Town	1
	Carletonville	1
	Durban	6
	De Aar	1
	East London	1
	Edenvale	3
	Ellisras	1
	Empangeni	1
	Fochville	3
	Gonubie	4
	Goodwood	1
	Kingsburgh	3
	King William's Town	1
	Klerksdorp	2
	Kloof	1
	Ladysmith	1
	Leandra	1
	Meyerton	1
	Middelburg	1
	Midrand	2
	Modderfontein	1
	Nelspruit	1
	Newcastle	2
	Orkney	1
	Phalaborwa	1
	Pietermaritzburg	1
	Pinetown	1
	Port Elizabeth	1
	Queensburgh	3
	Randburg	1
	Randfontein	8
	Richard's Bay	2
	Sandton	6

HOUSE OF ASSEMBLY

†Indicates translated version

For oral reply

General Affairs

State President

Seychelles: visited by certain person

*1 Mr J H VAN DER MERWE asked the State President†

(1) Whether a certain person who is attached to the State President's Office and particulars of whom have been furnished to the State President's Office for the purpose of his reply, visited the Seychelles during November 1987 and/or at any other stage, if so, (a) who arranged these visits, (b) what was the nature thereof and (c) what is the name of the person concerned,

(2) whether these visits took place with his (a) knowledge and (b) approval,

(3) whether during these visits the person concerned was in contact with a certain person or relatives of the latter person, whose name has also been furnished to the State President s Office, if so, (a) with whom was he in contact and (b) what was the nature of this contact,

(4) whether he will make a statement on the matter?

†The STATE PRESIDENT

(1), (2), (3) and (4)

No, not during November The person concerned did indeed spend a private holiday at Mauritius and the Seychelles with his wife and family at his own expense during April 1987 after his wife had undergone several operations

I do not regard it my duty to find out who he had met while on holiday

Ministers

Question standing over from Tuesday, 16 February 1988

Latin: abolishment as prerequisite for law

*1 Mr D J DALLING asked the Minister of Justice

(1) Whether he is considering abolishing the study of Latin as a prerequisite for persons wishing to practise law as (a) advocates and (b) attorneys, if not, why not, if so,

(2) whether any steps are to be taken in this regard, if not, why not, if so, (a) what steps, (b) by whom and (c) when?

The MINISTER OF JUSTICE

(1) and (2) In terms of section 1 of the Admission of Advocates Amendment Act, 1987 (Act 17 of 1987), the Minister of Justice is empowered to determine a date by notice in the *Gazette* on which the concession granted in terms of that Act is to cease to apply A thorough investigation has been undertaken to determine the date on which the concession will lapse The date which is envisaged, extends as far as 1995 To me this is indicative of the complexity of the matter and I am of the opinion that legal uncertainty could result from this Whilst the advocature requested me last year to reinstate the Latin requirement by the end of 1988, they have since then informed me that the profession will again scrutinize the matter carefully at their annual general meeting during July 1988 This profession has major interest in the matter and I do not think that it would be desirable to act before the profession's viewpoint is known Thereafter I shall make a decision

Question standing over from Tuesday, 1 March 1988

Patrick John Dooley. residence permit

*32 Mr M J ELLIS asked the Minister of Home Affairs

(1) Whether, during the past two years, his Department renewed the temporary residence permit of a certain person, whose name has been furnished to the Minister's Department for the purpose of his reply, if so, when was (a) his initial and (b) renewed temporary residence permit issued,

(2) whether his Department was informed that this person had a criminal record, if so, (a) when, (b) by whom and (c) what is the nature of this record,

(3) whether, prior to renewing the temporary residence permit of this person, his Department received any representations requesting that the application for renewal be turned down, if so, (a) from whom, (b) when, (c) what reasons were given for the request and (d) what was his response thereto,

(4) whether this person is still in the Republic, if not, when did he leave,

(5) whether he will make a statement on the matter?

The MINISTER OF HOME AFFAIRS [Reply laid upon the Table with leave of House]

(1) to (5) The hon member is referred to the annexure to this reply which contains the relevant facts in this matter

ANNEXURE

TEMPORARY WORK PERMIT PATRICK JOHN DOOLEY

Mr Patrick John Dooley, an Irish citizen, entered the country temporarily for holiday purposes on 18 May 1986 On 23 July 1986 he applied for a temporary work permit to take up employment as managing director at Lynton Investments (Pty) Ltd, Durban In support of the application Lynton Investments (Pty) Ltd, in a letter dated 22 July 1986, wrote *inter alia* as follows

"Mr Dooley has so impressed our Board of Directors with his able and professional approach that we have offered him the post of Managing Director and he has indicated his willingness to accept, subject to receiving the necessary permit(s) We must stress that it is vital for the commercial success of this company, and the Black housing sector in particular, for Mr Dooley to be granted the necessary permits "

A temporary work permit, valid until 23 October 1986, was issued on 24 July 1986 On 28 November 1986 the validity of the work permit was extended to 17 February 1987, after Lynton Investments had confirmed in writing on 21 October 1986 that Mr Dooley was still in their employ in the capacity of Managing Director, and requested the Department's assistance in arranging an extension of his temporary residence permit

On 17 December 1986 Lynton Investments wrote as follows to the Department's regional representative in Durban

"We wish you to note that Mr P J Dooley has resigned from the company s employ and with effect from that date he has relinquished his position as Managing Director of the Company

We also record that Mr Dooley will not be paid any remuneration for the month of December 1986 "

Another letter by Lynton Investments, bearing the same date and also addressed to the regional representative concerned, reads as follows

"We thank you for the interview granted today in regard to the above-mentioned application by P J Dooley

Presently you have indicated that the permit has been extended to 17 February 1987, but in accordance with certain information that has been advised to the company we now feel that it is the company s obligation to report such matters to the Department of Internal Affairs to make their enquiries (sic) to ascertain the accuracy of such information

Presumably once the Department has these facts on hand, it can make its own assessment of the severity of these

(1) (a) We Lynton Investments do not employ P J Dooley any longer with effect 1 December 1986

(b) Lynton Investments has been subjected to harassment by P J Dooley and incorrect/deceptive facts and allegations being given to major clients about the company

(c) The company is involved in the very important area of provision for Black housing in Natal and we do not wish continual deception to interfere with the promotion and progress of the Organisation

(2) Information that has come to light, but which Lynton Investments are not in a position to obtain fully documented evidence are dealt with hereunder, but suffi-

cient to indicate that Mr Dooley may not now be a desirable person to enter the Republic He should not be allowed to remain here as transactions entered into by him without our knowledge would seriously damage the good name of Lynton Investments

(3) The company has now been advised of Mr Dooley's record in England and discovered the following

(a) Mr Dooley was charged with deception of a Southern Ireland Bank in 1983, and was ordered for extradition to an airport in England by the Court to stand trial in Southern Ireland Reported in the Press on 5/1/83 (Mr Ross) Public Prosecutor — Teeside County Court, Cleveland

(b) A private enquiry revealed Mr Dooley has a criminal record and has in fact served a goal sentence in England

A check of Mr Dooley s record with the police in Middlesbrough, Cleveland, England will confirm the above

(c) Mr Dooley is not qualified as a Chartered Quantity Surveyor as he states

When the Company applied for a temporary work permit for the above we were completely unaware and had no knowledge of the above matters Had we any prior information of the above we certainly would not have considered making the application without requesting your department to verify information "

Mr M Rajab, MP for Springfield House of Delegates in a telex message dated 22 December 1986 informed the Department that he had been approached by Lynton Investments He continued by conveying the same information as contained in the preceding letter of Lynton Investments, and he requested the Department to attend to the matter

On 21 January 1987 the Department addressed a letter to Mr Dooley in which he was notified that

(i) it had been brought to the Department's attention that he was no longer employed by Lynton Investments,

(ii) the validity of his work permit was expiring on 17 February 1987

(iii) no further application for the extension of the work permit would be considered favourably,

(iv) he was required to make arrangements to leave the country on or before 17 February 1987, and

(v) failure to comply with the requirement might render him liable to prosecution

On 6 February 1987 Mr Dooley reacted on that letter by submitting a telex message to the Department which reads as follows

"A letter dated 21st January 1987 from Home Affairs — Pretoria (and referenced as above) was received by me on Wednesday 29th January 1987 I have been informed that my work permit will not be extended beyond the expiry date of 17th February 1987 and consequently I, and my family, must leave the country on, or before, the 17th February 1987

A formal application to have the Department's decision reviewed is being concluded by my attorneys On the advice of W J Naude I am instructed to contact you to place the salient facts before you and these are as follows —

(1) At the request of the Directors of Lynton Investments (Pty) Limited I travelled from the UK to South Africa in May 1986 to advise them and plan a management strategy, to involve Lynton in development of housing within the Black townships of Natal

(2) After two months Lynton invited me to act as Managing Director and offered me 17½ percent of the company s equity I readily accepted and brought my family to South Africa with the intention of eventually seeking permanent residency

(3) My task as MD of Lynton was to obtain a "declaration of competency" from the Minister of Development Aid to enable Lynton to carry out developments within the Black townships (Proclamations 153 and 154 refer) This was obtained in July 1986, after much representation in Pretoria

(4) Development rights for 2 300 house units was also approved by the Minister of Development Aid and Lynton had a forward development programme of R100 m (one hundred million rands)

(5) As a result of fundamental differences between myself and other directors of Lynton I resigned my position as MD of Lynton on 1st December 1986

These differences revolved around the funding partner's insistence that the specifications and standards of the house units be reduced in order to generate more profit As a socially conscious member of the community I could not accept that the quality of houses be sacrificed for greater profit and as a commercially minded businessman the original projected profits were sufficient

I had no alternative but to resign but I still retain my shareholding

(6) The value of my shareholding is currently R436 850 (based on auditors accounts) which will increase to R1 604 850 (based on projected development profits) It will be difficult, if not impossible, to manage this investment from outside of South Africa The Government's call for external investment in South Africa has been fully actioned by me and now I find that a Government department is preventing me from managing and capitalising upon the investment I have made in South Africa

(7) I resigned from Lynton because of my strong convictions about providing reasonable quality housing in the Black townships These strong convictions encouraged me to establish a new housing development company of which I, and others are funding Banking facilities have been arranged and the company is in the process of forming a strong relationship with LTA

Mr Naude (a director and shareholder of the company) together with a businessman, advocate and accountant make up the management "team '

(8) The prospects for the new company are excellent and more than R1 000 m (one million rand) is being expended on land acquisition for three development projects involving +350 house units A further R2 35 m is allocated for a development involving 750 house units

(9) Lynton s highly motivated letter of 22nd July 1986 to the Department of Home Affairs states 'We must stress that it is vital for the commercial success of the company, and the Black housing sector in particular, for Mr Dooley to be granted the necessary permits ' Affidavits to this effect will be forthcoming from my fellow directors/shareholders

It is essential that I remain in South Africa because

(a) I will be in a position to monitor the investment value of my 17½ percent shareholding in Lynton

(b) I will be able to manage and direct the business of the new company

(c) My family (two daughters and one son) have happily settled down in South Africa My eldest daughter is employed as equestrian manageress to a hotel in the Drakensberg

(d) My wife and I admire the discipline to be found in the education system (which is sadly lacking in the UK)

(e) We have made a substantial commitment in moving to South Africa — in both human and financial terms

(f) We believe that we can benefit, in all respects, by remaining here and make a positive contribution to the country

(g) We are all very happy here

Finally, I earnestly request that the Minister reviews the decision of the Department not to renew my permits

I pray that the foregoing will enable you to motivate a positive review and thank you in anticipation of your efforts "

On 10 February 1987 the Department, in a telex message, requested the South African Mission in London to check the information furnished by Lynton Investments regarding Mr Dooley's criminal record The Mission responded on 9 March 1987 with a telex message in which it was, *inter alia*, reported that it was not possible to say when details of Mr Dooley s record would be obtained

No further communication has been received to date In view of the information which was obtained from other sources from time to time and referred to herein no further enquiries were made at the South African Mission in London

In the meantime, Mr Dooley's attorneys in Durban, Messrs Van Onselen, Coppen and O'Connell, on behalf of Mr Dooley, made formal application for the extension of the work permit of Mr Dooley, for one year The application dated 13 February 1987 and supported by an affidavit by Mr Dooley was lodged at the Department's Head Office in Pretoria In his affidavit Mr Dooley reiterated the information furnished in his telex dated 6 February 1987

On 2 March 1987 Messrs Spoor and Fisher, attorneys in Pretoria, lodged with the Department an application by Mr Dooley for a work permit to continue employment at Sansdowne Developments (Pty) Ltd, Durban

On 2 April 1987 Mr M Rajab, MP, on behalf of Lynton Investments, forwarded to the Department copies of documents including a "Memorandum of Conviction" dated 16 March 1987, and purported to be signed by the Clerk of the Teeside Magistrate s Court sitting at Middlesbrough According to this document which bears no official marks as proof of its authenticity, Mr Dooley was arrested and ordered on 4 January 1983 to be delivered in custody to the Police force of the Republic of Ireland

On 13 April 1987 the Department received a letter, dated 1 April 1987, from Messrs Meskin and Levy, who, on behalf of Lynton Investments, informed the Department, amongst other things, that —

(i) Mr Dooley was at no time a member of the Royal Institute of Chartered Surveyors,

(ii) the letters in support of Mr Dooley's employment at Lynton Investments were not written and signed by Mr J C Hart,

(iii) Mr Dooley has a criminal record in the United Kingdom, which caused him to be deported from England into the custody of the Police force of the Republic of Ireland,

(iv) Mr Dooley served a prison sentence in England of at least one year during the period 1964 to 1970,

(v) Mr Dooley was convicted of two charges of false pretences in Ireland and sentenced to two years imprisonment suspended, and

(vi) Mr Dooley, who had established his own company, Sansdowne Developments (Pty) Ltd, is not entitled to act as a company director in terms of the Companies Act

The Department reacted to this letter by sending a telex message to Messrs Meskin and Levy on 16 April 1987 in which they were informed as follows

"According to Dooley he owns seventeen and a half per cent (valued at R436 000) shareholding in Lynton in terms of offer of employment dated 22 July 1986 Dooley's claim agrees with paragraph 4 of said offer of employment Your urgent comments will be appreciated "

On the same date Messrs Meskin and Levy responded as follows

"Thank you for your telex of today Our client Lynton Investments (Pty) Ltd reply as follows

(1) P J Dooley does not hold and has never held any shares in the company

(2) Mr Dooley's claim that he holds shares in the company is untrue

(3) The letter dated 22nd July 1986 was not written by Lynton Investments it was composed by Mr P J Dooley himself and was sent to himself Mr J G Hart did not sign the letter as it purports to hold out

(4) Please reply per telex today who is handling the matter as our client would like to discuss it telephonically "

On 21 April 1987 the Department made enquiries to the Registrar of Companies whether Mr Dooley, in view of the alleged criminal convictions was entitled to act as a company director

The Registrar of Companies informed the Department on 7 May 1987 that if the convictions of Mr Dooley could be confirmed, he would have to obtain authority from the Court to act as a director

In an undated letter addressed to the Minister of Home Affairs Cape Town Lynton Investments submitted various documentation in support of its claim that a permit for temporary or permanent residence should not be granted to Mr Dooley One of the documents submitted purports to be a certificate of conviction wherein the Registrar of the Periodical Criminal Court of Dublin certified on 7 May 1987 that Mr Dooley was found guilty on two counts of fraud According to the certificate he was sentenced to two years imprisonment on each of the two counts, which had to be served concurrently and which was suspended for two years on condition that Mr Dooley compensated the injured parties for the loss they had suffered

The Department notified Mr Dooley on 3 June 1987 to the effect that the exemption from the visa requirements as laid down in section 40(1)(c) of the Admission of Persons to the Republic Regulation Act, 1972 (Act 59 of 1972), which he enjoyed as a citizen of the United Kingdom, had been withdrawn, and that, should he in future arrive at a South African port of entry without a visa he would not be permitted to enter

On 15 June 1987 Mr Dooley was notified that his application for a work permit had been refused and that he and his family were required to leave South Africa within one month from the date of receipt of the letter Lynton Investments was also informed of this decision The latter was also informed that the Department was holding it responsible for any repatriation costs which the Department might incur if Mr Dooley had to be repatriated

Lynton Investments reacted with a strong denial that it was still responsible for any repatriation costs

On 17 June 1987 Messrs Van Onselen, Coppen and O Connell appealed to the Minister of Home Affairs on behalf of Mr Dooley to reverse the Department's decision Some of the points raised in their letter, are contained in the following quotations

"I act for Mr Dooley with regards to an array of legal matters including an action he has launched against his former Company and employers, Lynton Investments (Pty) Ltd In this action my client seeks to recover some R18 300,00 in salary and other remuneration he is entitled to

It has become quite clear to me that the dispute between Mr Dooley and Lynton Investments (Pty) Ltd goes well beyond mere litigation

The truth of the matter is that a bitter feud has developed between Mr Dooley and his former co-Directors in Lynton This is fuelled no doubt by the substantial progress my client has made with his new Company Sansdowne Developments (Pty) Ltd which operates in the same field as Lynton "

"Of particular concern to your Department is the revelation that Mr Dooley has a criminal record This was never mentioned in either Mr Dooley's original application or in his application for an extension The information presumably comes via Lynton s Directors I only became aware of the matter recently as Mr Dooley kept it a closely guarded secret

It strikes me as hypocritical in the extreme that Lynton s Directors can on the one hand, support Mr Dooley's original application for a work permit in glowing terms (witness the content of their letter of the 22 July 1986 to your Department and of the same date to Mr Dooley) when at least one of the Directors knew of Mr Dooley s record at the time, yet when it suits them to have him removed from the Country, they unceremoniously report him as a criminal

I am not trying to downgrade the gravity of my client s non-disclosure but merely point out that the people behind Lynton were as much part of the non-disclosure as Mr Dooley

I attach hereto an Affidavit by Mr Dooley which deals fully with *inter alia* the circumstances of his conviction and the non-disclosure to your Department I believe this helps put matters somewhat into perspective and hopefully casts matters in a different light in your eyes

In finality I would point out that our Country needs able men like Mr Dooley His activities are good for the free enterprise system He may have strayed from the path momentarily in the past, but he certainly will be of great assistance to the Country were he allowed to stay As an excellent example of this, I would draw to your attention that in the short space of five (5) months, Mr Dooley has negotiated to conclusion a major project involving establishment of a new township of approximately 182 stands in Verulam This was made possible by a partnership between Sansdowne Developments (Pty) Ltd as project managers and Basil Read (Pty) Ltd as contractors Clearly Mr Dooley has an amazing ability in property development with particular relevance to mass housing schemes "

On 9 July 1987 the Department informed its regional representative that a temporary residence permit valid till 30 September 1987 may, on application, be issued to Mr Dooley

Subsequent representations received, were from

(i) Mr Dooley's attorneys, who on 10 July 1987, confirmed that a civil action between Mr Dooley and Lynton Investments is pending in the Durban Local Division of the Supreme Court The quantum in the action is, according to the attorneys, more than R½ m

(ii) Messrs Meskin and Levy, who on 23 July 1987, on behalf of Lynton Investments, expressed their client's surprise at the granting of permission to Mr Dooley to reside in the country for a further "5 months" The Department was also informed that their client "even went as far as to undertake without prejudice to their rights to recover the costs, to pay for Mr Dooley's repatriation costs" They further requested on behalf of their client to advise them as a matter of urgency the exact position with regard to Mr Dooley and in particular the reasons for the apparent change in attitude towards this particular person who has a "long" criminal record

(iii) Mr M J Ellis, MP for Durban North who personally discussed the matter with the Director-General Home Affairs on 5 August 1987, and who subsequently in a letter dated 8 September 1987, wrote *inter alia* as follows

"To date I have not heard from your Department as to whether Mr Dooley has been successful in his attempt to obtain permanent residence or even an extension of his temporary residence permit However, I have had information from other sources to the effect that Mr Dooley is expecting to receive a favourable and positive reply from your office in response to his various applications

I wish to draw your attention again to his unfortunate record and the fact that he has a criminal record overseas There is no reason whatsoever for him to be given residence — either of a permanent nature or an extension of his temporary residence status

I would be extremely grateful to know as soon as possible what decision your department comes to with regard to Mr Dooley If for any reason whatsoever your department does decide to give him an extended stay in South Africa, again, either of a permanent or temporary nature, I should be grateful if you would let me know on what grounds this permission was granted

Mr Dooley has caused a number of people a great deal of embarrassment and frustration Taking all into account, including his overseas record he has little to offer this country — a point you yourself agreed to when I discussed the matter with you "

In view of all the representations received both in favour of the termination of Mr Dooley's sojourn in the country and in favour of his continued residence here, the Department, in a submission dated 8 September 1987, recommended to me that a work permit be issued to Mr Dooley to work at Sansdowne Developments (Pty) Ltd One of the reasons advanced for the granting of the work permit was to afford the contesting parties in this matter an opportunity to have their claims and counter claims tested in the civil action which Mr Dooley had instituted

On 14 September 1987 I referred the matter back to the Department with the request that all documents and facts be investigated and considered again and that a further submission be made to me before I take a decision

On 28 September 1987 the matter was once again submitted to me with the following recommendation by the Department

"Everything taken into consideration it would appear to be fair and reasonable to as previously recommended, issue a temporary work permit to Mr Dooley in order to take up employment with Sansdowne Developments (Pty) Ltd His temporary residence in the Republic will enable him to finalise his civil action against Lynton Investments and in the meantime it will also give him the opportunity to clarify his directorship at Sansdowne Developments (Pty) Ltd with the court "

I have, in terms of section 8 of the Aliens Act, 1937, and section 13 of the Admission of Persons to the Republic Regulation Act, 1972 a discretionary power to exercise with regard to the withdrawal of temporary work permits or to declare a person as an undesirable inhabitant of the Republic In the exercising of that power in this particular instance, I have applied the *audi alteram partem*-rule in order to arrive at a fair and balanced decision

Lynton Investments relied heavily on the alleged previous convictions of Mr Dooley in their efforts to have Mr Dooley's sojourn in the RSA terminated Mr Dooley did not deny the convictions He in fact indicated that he had fully compensated the injured parties and he furthermore intimated that at least one of the directors of Lynton Investments was aware of these convictions

When I exercised my discretion in this matter, I also took that information into account However, I also had to bear in mind the following factors which weighed in favour of Mr Dooley's prolonged residence in this country These factors were the following —

Mr Dooley and his family would have suffered unduly if his sojourn were to be terminated summarily as demanded by Lynton Investments

Such termination would furthermore have a serious effect on the business operations of the company established by Mr Dooley, which appears to be well needed in the area in which it is functioning

Whilst the parties in this matter are having an opportunity to have their claims and counter claims tested in the civil action instituted in the Supreme Court, the termination of Mr Dooley's sojourn in this country would most probably have a prejudicial effect on that action

After careful consideration of all the relevant facts and representations, I decided to approve the issue of a work permit on the following terms as notified in the letter from the Director-General Home Affairs to Mr Ellis MP dated 21 October 1987

"Dear Mr Ellis

WORK PERMIT MR P J DOOLEY

I refer to our discussions in the above regard and regret that due to several contradicting representations received by Mr J C G Botha, Minister of Home Affairs and of Communications, a full investigation into the activities of Mr Dooley had to be conducted, and it was therefore not possible to furnish you with a reply at an earlier date

Minister Botha now had the opportunity to study all the facts at his disposal and I wish to inform you that he has after careful consideration, decided to approve the issue of a temporary work permit to Mr Dooley The permit will be valid for an initial period of 12 months and on expiry thereof the Minister will, once again, take the whole matter into reconsideration "

The Department has furnished the SA Police who is investigating this matter with all relevant information at its disposal After completion of the Police investigation and with due regard to the outcome of possible legal steps, Mr Dooley's position will be reconsidered

New Questions

Tresspass: Blacks arrested

*1 Mrs H SUZMAN asked the Minister of Law and Order

How many Black persons were arrested by the South African Police for trespass in the PWV area of the Transvaal from 1 January 1987 up to the latest specified date for which information is available?

†The MINISTER OF LAW AND ORDER

The South African Police keeps statistics only with regard to the total number of people prosecuted for trespassing These statistics do not distinguish between the different races and also do not indicate whether the persons were arrested, summonsed or cautioned to appear in court

To gather information of this nature for the PWV area will be a voluminous and time-consuming task Therefore, I do not consider it practically feasible to furnish the information

Curfew regulations: persons arrested

*2 Mrs H SUZMAN asked the Minister of Law and Order

How many persons in the Republic were arrested in 1987 for offences in terms of curfew regulations?

The MINISTER OF LAW AND ORDER

None

All measures that controlled movement of people in the Republic, were repealed I also refer the hon member to my reply to written question No 225 of 23 February 1987 (Hansard col 321)

(a) How many persons have been detained in terms of section 28 of the Internal Security Act, No 74 of 1982, since 6 February 1987 and (b) in respect of what date is this information furnished?

The MINISTER OF JUSTICE

(a) None

(b) 19 February 1988

Detentions under section 28 of Internal Security Act, written representations/releases

326 Mr D J DALLING asked the Minister of Justice

How many persons detained under section 28 of the Internal Security Act, No 74 of 1982, (a) made written representations to him in 1987 relating to their detention or release and (b) had been released from detention as a result of these representations as at the latest specified date for which information is available?

The MINISTER OF JUSTICE

No persons were detained in 1987 under section 28 of the Internal Security Act, No 74 of 1982

(a) and (b) Fall away

Section 28(1) of Internal Security Act detainees

328 Mr D J DALLING asked the Minister of Justice

(1) How many persons were being detained under section 28(1) of the Internal Security Act, No 74 of 1982, as at the latest specified date for which figures are available,

(2) whether any such persons have been detained for longer than three months if so (a) how many and (b) for what period in each case?

The MINISTER OF JUSTICE

(1) None on 19 February 1988

(2) (a) and (b) Fall away

Offences relating to sabotage

333 Mr D J DALLING asked the Minister of Justice

How many persons charged with offences relating to sabotage were (a)(i) acquitted, (ii) convicted of sabotage and (iii) convicted of lesser offences in 1987 and (b) still awaiting trial at the end of 1987?

The MINISTER OF JUSTICE

Information in connection with offences relating to sabotage is not readily available in the Department The following information is in respect of persons charged with sabotage

(a) (i) 6

(ii) 0

(iii) 0

(b) 6

Intimidation Act: persons convicted of offences

336 Mr D J DALLING asked the Minister of Justice

Whether any persons were convicted in 1987 of offences under the Intimidation Act, No 72 of 1982 if so, how many persons in each race group?

The MINISTER OF JUSTICE

The information is not readily available However the Attorneys-General have furnished the following statistics regarding cases which have been referred to them It must be pointed out that not all cases are referred to the Attorneys-General

		Number of persons convicted
Pretoria	—	5 Blacks
Johannesburg	—	52 Blacks
Cape Town	—	None
Kimberley	—	None
Pietermaritzburg	—	7 Blacks
Grahamstown	—	8 Blacks
Bloemfontein	—	None

Legal aid services suspended by Legal Aid Board

337 Mr D J DALLING asked the Minister of Justice

Whether any legal aid services were suspended by the Legal Aid Board in 1987 if so, (a)(i) which services and (ii) for what period and (b) why were these services suspended?

The MINISTER OF JUSTICE

Yes

(a) (i) and (ii) Criminal and civil appeals all briefs to advocates in the lower courts in criminal as well as civil cases all briefs to senior advocates in the Supreme Court in criminal as well as civil cases, cases in which the *quantum* of a claim is R1 200,00 or less, the legal costs in divorce actions and related actions are restricted on legal aid tariff to a maximum of R500 00, the legal costs for the defending of criminal cases are restricted on legal aid tariff to a maximum of R240,00 and R360,00 in respectively the magistrate's and regional court, the legal costs in matters where the death sentence has been imposed are restricted on legal aid tariff to a maximum of R360,00 per application or petition, the legal costs in Industrial Court cases were restricted on legal aid tariff to a maximum of R360,00 for the period 23 March 1987 to 8 July 1987, and all Industrial Court cases as from 9 July 1987 until further notice All the other suspensions and restrictions were in force for the year 1987 until further notice The Director of the Legal Aid Board however retained the authority to grant legal aid in deserving cases, to give instructions to advocates and senior advocates and to lift restrictions

(b) In order not to spend more money than was available In respect of cases in which the *quantum* of a claim is R1 200 or less, legal aid services were suspended because small claims courts have been introduced

Death sentences commuted

339 Mr D J DALLING asked the Minister of Justice

How many death sentences in each race group were commuted in 1987?

The MINISTER OF JUSTICE

3 White males

12 Black males

2 Coloured males

1 Coloured female

2 Indian males

Permission to exhibit films on Sundays

341 Mr D J DALLING asked the Minister of Justice

(1) How many applications were received by his Department in 1987 for permission to exhibit films on Sundays,

(2) how many of these applications were for permission (a) in general, (b) in a particular case and (c) in cases of a particular nature,

(3) (a) how many of the applications in each category were (i) granted and (ii) refused and (b) what were the reasons for the refusal in each case?

The MINISTER OF JUSTICE

(1) 27

(2) (a) 21

(b) 6

(c) 0

(3) (a)

	(i) Granted	(ii) Refused
Applications in general	21	0
Applications in a particular case	6	0
Applications of a particular nature	0	0

(b) Falls away

NOTE In so far as the above-mentioned classification is concerned, it is assumed that the words "applications in general" refer to those applications in respect of which consent was requested for general permission to exhibit films on Sundays, or on one or two Sundays per month It is also assumed that the words "applications in a particular case" refer to applications to exhibit films on Sundays on specific dates and that the words "applications in cases of a particular nature" refer to applications to exhibit films of a particular category on Sundays, for example religious and cultural films and films in the Indian or Greek language

Section 185 of Criminal Procedure Act detainees

342 Mr D J DALLING asked the Minister of Justice

Whether any persons were detained in 1987 in terms of section 185 of the Criminal Procedure Act, No 51 of 1977 if so, (a) how many, (b) for

Pretoria North and was adjourned until 20 June 1988 for the hearing of evidence

Greater Edendale, Pietermaritzburg. prosecutions

143 Mr R M BURROWS asked the Minister of Justice

(1) Whether any prosecutions have been instituted in connection with recent incidents of violence and murder in the Greater Edendale area of Pietermaritzburg, if not, why not, if so, (a) against how many individuals have prosecutions been instituted for murder and (b) in how many such prosecutions have the cases been brought to trial,

(2) whether there is a backlog in regard to cases relating to the said incidents of violence and murder in the (a)(i) district and (ii) regional courts and (b) Supreme Court, if so, (aa) what is the extent of the backlog in each court and (bb) how long is it anticipated will it take to eliminate these backlogs,

(3) whether he will make a statement on the matter?

The MINISTER OF JUSTICE

(1) Yes

(a) There are at present approximately 165 unrest-related cases on the roll in the lower courts which were postponed for further investigation Approximately 400 accused are involved

(b) One case in which 9 accused and 13 deceased persons are involved, is on the roll for trial in the Supreme Court The trial will start on 29 February 1988

(2) No

(3) No

Internal Security Act notices issued/withdrawn/expired

202 Mr S S VAN DER MERWE asked the Minister of Justice

(1) Whether any notices in terms of section 5(1)(e) of the Internal Security Act, No 74 of 1982, (a) were issued, (b) were withdrawn and (c) expired in 1987, if so, (i) how many in each case and (ii) how many such notices were of effect as at 31 December 1987,

(2) whether any notices which expired were renewed, if so, how many?

The MINISTER OF JUSTICE

(1) (a), (b) and (c) No

(i) Falls away

(ii) None

(2) Falls away

Internal Security Act: cases referred to Board of Review

206 Mr S S VAN DER MERWE asked the Minister of Justice

(1) How many cases were referred to the Board of Review in terms of the Internal Security Act, No 74 of 1982, in 1987,

(2) whether the Board recommended the withdrawal of any notices, if so, (a) how many and (b) with what result?

The MINISTER OF JUSTICE

(1) 154 cases

(2) No

(a) and (b) Fall away

Group Areas Act· prosecutions for offences

257 Mr S S VAN DER MERWE asked the Minister of Justice

(a) How many persons were prosecuted in the Republic for offences in terms of the Group Areas Act in 1987 and (b) how many of these persons were (i) acquitted and (ii) convicted?

The MINISTER OF JUSTICE

(a) 3

(b) (i) 0

(ii) 3

Offences in terms of Group Areas Act cases referred to Attorneys-General

258 Mr S S VAN DER MERWE asked the Minister of Justice

Whether any cases involving offences in terms of the Group Areas Act were referred to the Attorneys-General for decisions regarding prosecution in 1987, if so, (a) how many and (b) in how many of these cases did the Attorneys-General order that prosecutions be instituted?

The MINISTER OF JUSTICE

Yes

(a) 361 I may add that as far as can be ascertained there are at present about 100 police dockets awaiting the decision of the Attorneys-General

(b) 2—One case involving two persons, and the other, one person

Men sentenced to corporal punishment

259 Mr S S VAN DER MERWE asked the Minister of Justice

(1) How many males (a) under the age of 18 years, (b) aged 18 to 21 years and (c) aged 21 years and over in each race group were sentenced to corporal punishment in 1987,

(2) how many strokes were inflicted in respect of each category of persons?

The MINISTER OF JUSTICE

The information is not readily available in the Department In an effort to be of assistance to the hon member, the following information for the period 1 July 1986 to 30 June 1987 was obtained from the Central Statistical Services

Race	*Corporal punishment coupled with imprisonment*		*Corporal punishment not coupled with other sentences*
	(a) not suspended	(b) partly suspended	
Whites	12	247	1 086
Coloureds	51	1 757	11 977
Indians	2	33	404
Blacks	190	2 326	21 223

Republic/self-governing territories amounts spent on housing

300 Mr A GERBER asked the Minister of Education and Development Aid †

What amounts did his Department spend on Black housing in the (a) Republic and (b) self-governing territories in 1985, 1986 and 1987, respectively?

The MINISTER OF EDUCATION AND DEVELOPMENT AID

The following amounts were made available under the item self-build loans in

	(a)	(b)
1985 (1984/85 financial year)	R4 395 000	R11 532 000
1986 (1985/86 financial year)	R5 200 000	R11 108 992
1987 (1986/87 financial year)	R17 902 000	R42 702 000

In addition the following amounts were made available for the supply of infrastructure such as roads, water, sanitation and electricity

	(a)	(b)
1985 (1984/85 financial year)	R9 469 500	R26 773 500
1986 (1985/86 financial year)	R12 443 000	R26 408 000
1987 (1986/87 financial year)	R49 994 000	R176 934 200

(The 1986/87 amounts included additional funds made available)

Persons sentenced to corporal punishment

323 Mr D J DALLING asked the Minister of Justice

How many persons of each race group were sentenced to corporal punishment during the period 1 July 1986 to 30 June 1987?

The MINISTER OF JUSTICE

The hon member is referred to my reply to written question No 259 of 1988

Section 28 of Internal Security Act detainees

324 Mr D J DALLING asked the Minister of Justice

What total number of persons in each race group was in detention in each specified region in terms of section 28 of the Internal Security Act, No 74 of 1982, as at the latest specified date for which information is available?

The MINISTER OF JUSTICE

None on 19 February 1988

Section 28 of Internal Security Act· detainees

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The MINISTER OF JUSTICE

(1) (a), (b) and (c) No

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(ii) None

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The MINISTER OF JUSTICE

(a) 3

(b) (i) 0

(ii) 3

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What total number of persons in each race group was in detention in each specified region in terms of section 28 of the Internal Security Act No 74 of 1982, as at the latest specified date for which information is available?

The MINISTER OF JUSTICE

None on 19 February 1988

Section 28 of Internal Security Act. detainees

325 Mr D J DALLING asked the Minister of Justice

Illegal strikes. workers charged/convicted

463 Mr J B DE R VAN GEND asked the Minister of Justice

How many workers in each race group were (a) charged with and (b) convicted of illegal strikes and related conduct for the period 1 July 1986 to 30 June 1987?

The MINISTER OF JUSTICE

The information is not readily available in the Department In an effort to be of assistance to the hon member, the following information was obtained from the Central Statistical Services

(a)	Whites	0
	Coloureds	1
	Asiatics	0
	Blacks	126
	Total	127
(b)	Whites	0
	Coloureds	1
	Asiatics	0
	Blacks	19
	Total	20

Public violence· persons charged

465 Mrs H SUZMAN asked the Minister of Justice

(1) (a) What total number of persons in each magisterial district was charged with public violence in 1987 and (b) how many of them were (i) under the age of 18 (ii) between the ages of 18 and 21 and (iii) over the age of 21 years,

(2) whether any of these persons were convicted on these charges, if so (a) how many in each age category and (b) how many of those convicted were sentenced to terms of imprisonment without the option of a fine,

(3) whether any of the persons so charged had the charges against them withdrawn, if so, how many in each of these age categories?

The MINISTER OF JUSTICE

The hon member is referred to my reply to Written Question No 458 of 1988

Males/females executed

469 Mrs H SUZMAN asked the Minister of Justice

(a) How many (i) males and (ii) females of each race group were executed in the Republic in 1987 and (b) for what crime or crimes had each death sentence been imposed?

The MINISTER OF JUSTICE

(a) (i) *Males*

Black	102
Coloured	53
White	9
Total	164

(ii) No females were executed during 1987

(b) *Murder*

Black men	86
Coloured men	51
White men	9

Rape

Black men	2
Coloured man	1

Robbery with aggravating circumstances

Black men	3
Coloured man	1

More than one offence

(i) Murder and robbery with aggravating circumstances
Black men 5

(ii) Murder and rape
Black men 3

(iii) Murder, housebreaking with the intent to rob and robbery with aggravating circumstances
Black men 3

Companies placed under compulsory liquidation

476 Mr H H SCHWARZ asked the Minister of Justice

How many companies were placed under compulsory liquidation in the area of each Master of the Supreme Court in 1987?

The MINISTER OF JUSTICE

Cape of Good Hope	198
Northern Cape	14
Eastern Cape	43
Orange Free State	17
Natal	123
Transvaal	946
	1 341

Persons declared bankrupt

477 Mr H H SCHWARZ asked the Minister of Justice

How many persons were declared bankrupt in each Division of the Supreme Court in 1987?

The MINISTER OF JUSTICE

Cape of Good Hope	538
Northern Cape	92
Eastern Cape	195
Orange Free State	446
Natal	289
Transvaal	2 533
	4 093

Human Sciences Research Council· research directives by Government

499 Mr P G SOAL asked the Minister of National Education

Whether the Government has given any research directives to the Human Sciences Research Council since 1 January 1987, if so, (a)(i) how many and (ii) what is the nature of each of these directives and (b) in respect of what date is this information furnished?

The MINISTER OF NATIONAL EDUCATION

Yes

(a) (i) 27

(ii) 1 American public opinion towards South Africa

2 Developing a procedure to evaluate clerical counter services in government departments

3 An enquiry into the attitude of Indians and Coloureds regarding a career/work in the SADF

4 Demand for and supply of manpower

5 Survey of the income and expenditure patterns of households in Ciskei and Transkei

6 The development of a selection battery for illiterates and semi-literates

7 The qualitative evaluation of management training in South Africa

8 Investigation into the development concept and the development of suitable training inputs

9 Estimation of under-enumeration during the census of 1985

10 A follow-up study among family planning workers in respect of attitudes towards occupational activities

11 Determining contraceptive continuation rates

12 Preventive health needs of men in the PWV-area

13 Perceptions of the public concerning aspects of the family-planning programme

14 The development of a crisis-intervention programme for victims of sexual crimes

15 Investigation into foster care

16 An assessment of the impact of intensive agricultural development on the inhabitants of the Makathini Flats

17 The monitoring of perceptions of socio-political change among Whites Coloureds Asians and Blacks in South Africa

18 The experience of members of Gay organisations in Southern Africa regarding the Acquired Immune Deficiency Syndrome (AIDS) in South Africa

19 The development of a training course in communication for senior officers (SA Defence Force)

20 Identification of the needs for negotiations skills among staff of the Department of Post and Telecommunications and the implementation of the findings in a newly designed training course

21 Optimalization of communication on nature conservation for Blacks

22 Evaluation of career education in the schools of the Department of Education and Training

23 Job opportunities for the disabled

24 The informal sector and zoning in Black areas

25 The value of training in prisons as seen by the prisoners them-

what period was each of them detained and (c) in respect of what crime in each case?

The MINISTER OF JUSTICE

Yes

(a) 34

(b) and (c)

Number of persons	*Period*	*Crime*
1	1 day as on 31 12 87	Murder and attempted murder
2	1 month and 8 days as on 31 12 87	Murder, rape, housebreaking with the intent to steal and theft and attempted theft
2	1 month and 15 days as on 31 12 87	Murder, kidnapping, robbery, intimidation and assault with the intent to do grievous bodily harm
4	3 months and 6 days as on 31 12 87	Murder and public violence
5	4 months and 24 days	Murder
9	5 months and 15 days	Murder
1	5 months and 26 days	Kidnapping
3	6 months and 5 days	Murder
2	6 months and 12 days	Murder
5	6 months and 14 days	Murder

Non-Whites hanged for crimes of violence against Whites

343 Mr D J DALLING asked the Minister of Justice

(1) How many (a) Blacks, (b) Coloureds and (c) Indians were hanged in 1987 for crimes of violence against Whites,

(2) how many Whites were hanged in 1987 for crimes of violence against (a) Blacks, (b) Coloureds and (c) Indians?

The MINISTER OF JUSTICE

(1) (a) 37

(b) 15

(c) 0

(2) (a) 3

(b) 0

(c) 0

The following information is also furnished for the hon member's information

(a) There were also 6 Whites executed during 1987 due to crimes of violence committed against other Whites

(b) Number of Blacks executed for crimes of violence against the following race groups

Blacks	
Coloureds	52
Indians	10
	3

(c) Number of Coloureds executed for crimes of violence against the following race groups

Coloureds	
Blacks	35
Indians	3
	0

(d) No Indians were executed during 1987.

Posts filled by non-Whites

360 Mr R M BURROWS asked the Minister of National Education

(1) (a) What percentage of the posts in his Department is filled by non-Whites and (b) in respect of what date is this information furnished,

(2) whether he appointed any persons to senior positions in his Department during the latest specified 12-month period for which information is available, if so, (a) to what specified senior positions and (b) which of these positions were filled by non-Whites?

The MINISTER OF NATIONAL EDUCATION

(1) (a) 1 5%

(b) As on 22 February 1988

(2) (a) Yes from 23 February 1987 until 22 February 1988 in the following posts

Director
Deputy Director
Assistant Director
Chief Language Practitioner
Chief Librarian
Chief Sport Promotion Officer
Chief Archivist
Control Programmer
Cultural Attaché
Senior Personnel Officer

(b) None However, I want to draw attention to the fact that, during the past twelve months, 29 posts of senior officer and equal or higher grading were advertised, and that no applications from members of population groups other than Whites were received

Identity documents: persons charged/convicted/acquitted

382 Mr D J N MALCOMESS asked the Minister of Justice

Whether any (a) White, (b) Black, (c) Coloured and (d) Indian persons were (i) charged with, (ii) convicted of and (iii) acquitted on a charge of not being in possession of an official identity document during the latest specified year for which figures are available, if so, (aa) how many and (bb) in terms of what statutory provision in each case?

The MINISTER OF JUSTICE

The information is not readily available in the Department

Criminal Procedure Act. persons referred for inquiry

420 Dr M S BARNARD asked the Minister of Justice

In how many cases in 1987 (a) were persons referred for inquiry in terms of section 77 or 78 of the Criminal Procedure Act, No 51 of 1977, and (b) did the court find that persons were not capable of understanding the court proceedings or were not criminally responsible for their acts as a result of mental illness or mental defects?

The MINISTER OF JUSTICE

(a) 1 587 persons

(b) 397 persons

Development corporations manufacturing concerns/employees/amount invested

445 Mr P G SOAL asked the Minister of Education and Development Aid

As at the latest specified date for which figures are available, what was the total (a) number of (i) manufacturing concerns and (ii) persons employed and (b) amount invested by development corporations in each of the self-governing territories where decentralization concessions or incentives are applicable?

The MINISTER OF EDUCATION AND DEVELOPMENT AID

		(a)(i)	(a)(ii)	(b)
Gazankulu	31/12/1987	125	5 908	R33 337 275
KaNgwane	31/12/1987	57	2 027	R11 189 084
KwaNdebele	31/12/1987	116	6 982	R61 351 500
KwaZulu	31/12/1987	195	32 952	R225 086 000
Lebowa	31/12/1987	234	7 375	R70 347 000
Qwaqwa	31/12/1987	203	19 500	R67 847 000
Total		930	74 744	R469 157 859

Public violence: persons charged/convicted

458 Mr P G SOAL asked the Minister of Justice

(1) (a) How many persons were charged with public violence in each specified magisterial district during the period 1 July 1986 to 30 June 1987 and (b) what total number of the persons so charged was subsequently convicted,

(2) whether bail was granted to the accused in any of these cases, if not, why not, if so, in how many cases,

(3) whether any charges of public violence were withdrawn, if so, how many,

(4) whether any of the persons so charged were under the age of 18 years, if so, how many,

(5) whether these persons were prosecuted in terms of the provisions of the Children s Act, No 33 of 1960 if not (a) why not and (b) who took the decision in this regard?

The MINISTER OF JUSTICE

The information is not readily available in the Department

Public violence judgment

JUDGMENT was reserved in an appeal against a jail sentence for a second-year University of Cape Town student in the Appeal Court in Bloemfontein last week.

Moegamat Abdol Samaai, 20, was convicted on a charge of public violence and sentenced to 12 months imprisonment in the Wynberg magistrate's court in November 1985.

The state alleged that Samaai was part of a group of 30 to 40 people who stoned a police vehicle in Parkwood in September 1985.

He left the group and set two tyres alight. He was then shot in the hand and buttocks, and arrested.

Samaai, a second year Bachelor of Commerce student at UCT, was in matric at the time of his conviction.

He was sentenced in the Wynberg magistrate's court in November 1985.

In 1986 an appeal against his sentence and conviction was turned down by the Supreme Court.

The Chief Justice was then petitioned for appeal against the conviction but without success.

10-76/3/86

Cape Times 10/3/88 (252)

164 people hanged in 1987

Political Staff

A TOTAL of 164 people were executed in South Africa last year, 43 more than 1986 and by far the greatest number in the last 10 years

Excluding executions in the TBVC homelands, 1 218 people have gone to the gallows in the past 10 years according to the Department of Justice

The Minister of Justice, Mr Kobie Coetsee, told the MP for Houghton, Mrs Helen Suzman, in a written reply to a question yesterday that 102 African males, 53 coloured males and nine white males were executed last year

Mr Coetsee said 86 Africans had been hanged for murder, two for rape, three for robbery with aggravating circumstances, and 11 for more than one of these offences

Of the coloured men executed, 51 had been convicted of murder, one of rape and one for robbery with aggravating circumstances

Six whites were hanged for crimes of violence against other whites

Mr Coetsee said 20 death sentences had been commuted in 1987

Sharpeville 6 set to hang on Friday

15/3/88

(252)

STAR

By Jo-Anne Collinge

The Sharpeville Six, sentenced to death for the murder of a councillor on the first day of the Vaal uprising of September 1984, are to be hanged on Friday morning, their Johannesburg lawyer has been told

Attorney Mr Prakash Diar said yesterday this was confirmed by officials in the Departments of Justice and Prison Services after he received information that execution orders had been served on his clients.

The Star was unable to obtain direct confirmation at the time of going to press.

Mr Diar said that he had not yet received a formal response to the petition for clemency addressed to the State President about two months ago

"The execution orders seem answer enough," he said

Lawyers would continue to the last to fight the executions, which are based on a verdict of guilty founded on the "doctrine of common purpose", he said

Neither in the original judgment, passed in December 1985, nor in the Appeal Court judgment handed down two years later were any of the six found to have contributed directly to the injuries which killed councillor Khuzwayo Jacob Dlamini

But they were found to have associated themselves with the crowd, who beat and stoned him until he lost consciousness and then set his body alight

FRESH EVIDENCE

Mr Diar said. "We are going to try to go to court and to get a stay of execution."

It is understood the grounds for the urgent court application are likely to be the availability of fresh evidence

The Sharpeville Six are Mojalefa Reginald Sefatsa (32), Reid Malebo Mokoena (24), Oupa Moses Diniso (32), Theresa Ramashamola (26), Duma Joshua Khumalo (28) and Francis Don Mokgesi (30)

If the executions go ahead, Ramashamola will be the first woman to be executed in South Africa for a conviction arising from political conflict.

The Star Bureau in London reports The Anti Apartheid Movement has swung into top gear as it lobbies world leaders to intervene.

Relatives of the six will visit 10 Downing Street to petition Mrs Thatcher to step in with her own clemency appeal to President P W Botha.

● The Government owed respect to the anniversary of the Sharpeville riots on March 21, 1960, and should demonstrate goodwill by sparing the lives of the Sharpeville Six, the Media Workers Association of South Africa (Mwasa) said today

● Confirmation that the Sharpeville Six were to hang was tragic news for the young people and their families, Progressive Federal Party spokesman on civil rights Mrs Helen Suzman said today

Six get execution orders

B/day 15/3/88

ROGER SMITH

EXECUTION orders have been served on the "Sharpeville Six" in spite of local and international appeals to President P W Botha for clemency.

The six — Majalefa Reginald Sefatse, 30, Reid Malebo Mokoena, 22, Oupa Moses Diniso, 30, Theresa Ramashamola, 24, Duma Joshua Khumalo, 29, and Francis Don Mokgesi, 29, — were served seven-day execution notices on Friday.

They could be hanged either this Friday or next Monday, their lawyers said yesterday. A justice department spokesman confirmed the orders were served but could not say when the six would hang.

The outcry against their executions will be heightened by the fact that Monday is the 18th anniversary of the 1960 Sharpeville massacre

In a controversial judgment the six were sentenced to death for the murder of Lekoa deputy mayor Kuzwayo Dhlamini in 1984, although it was never shown that they contributed directly to his death Their appeal was dismissed by the appellate division in Bloemfontein last year

In January an appeal for clemency was lodged with Botha, but a Justice Department spokesman said the serving of the execution orders could be assumed to mean the clemency appeal was unsuccessful.

Advocate Edwin Cameron of the Wits Centre for Applied Legal Studies said if the six were hanged, "no people in SA history would have been hanged for more cursory participation in a crime".

He said their fate was a troubling reflection on the effect of the emergency on the administration of justice.

NATIONAL/INTERNATIONAL

Western leaders add voices to protest; PFP to see Botha

Last-ditch plea for 'Six'

By TOS WENTZEL
Political Correspondent

LAST-MINUTE attempts were being made in political circles today to get President Botha to grant clemency to the "Sharpeville Six".

Britain, Germany and the United States are making further representations to the South African Government

At home Mr Botha has agreed to see Mrs Helen Suzman, MP, and Mr Colin Eglin, leader of the Progressive Federal Party, tomorrow morning

The matter was mentioned in the Assembly yesterday

'Sheer madness'

Calling for clemency then, Mrs Suzman said it would be "sheer madness" to add the six to South Africa's many martyrs

The Minister of Law and Order, Mr Adriaan Vlok, said he had not comment to make other than that the high authority of the Appeal Court should be respected He could not interfere with the decision of the highest court in the land

Answering questions in the Assembly the Minister of Justice, Mr Kobie Coetsee, said representations had been received from various persons and organisations for the commuting of the death sentences

No ground could be found to commute the sentences imposed by the court and confirmed by the Appellate Division.

Presentations

A spokesman for the President's offce said today that it was widely known that presentations for clemency had been made but he declined to comment further

He referred all inquiries to the Department of Justice.

Mrs Suzman today warned Mr Botha that the executions would have a tremendous impact externally and internally

She dismissed the argument that court decisions could never be challenged Had this been the case there would not have been the principle of clemency Clemency was in fact extended from time to time in spite of court decisions

Last bid to save the Sharpeville 6

Cape Times 16/3/88

Mercy plea

252

JOHANNESBURG. — Lawyers acting for the Sharpeville Six will bring an urgent application in the Pretoria Supreme Court today in a bid to head off the planned execution which unleashed a storm of protest yesterday.

Lawyers were last night drawing up papers in preparation for the application, according to lawyer Mr Prakash Diar

The eleventh hour bid to save the lives of the six yesterday came as

● President Ronald Reagan joined other world leaders and human rights groups in urging clemency,

● Mrs Margaret Thatcher took the unusual step of making a personal appeal to the South African Government to spare their lives. Earlier, two relatives of the Sharpeville Six, Mrs Julia Ramashamola and Mrs Joyce Mokhesi, spent 30 minutes with two of Mrs Thatcher's aides at Downing Street and told them that a personal plea to the State President was their only hope,

● West German Chancellor Helmut Kohl also called on to President Botha saying "I ask you urgently not to deny this appeal", and

● PFP leader Colin Eglin and national chairman Mrs Helen Suzman were granted a meeting to see President P W Botha tomorrow morning to urge him to use his discretionary powers of clemency

Last night a spokesman for the State President s Office told the Cape Times that the president had not received messages calling for clemency for the six

However, the spokesman added; "It is a matter of course that we cannot comment on communications between the State President and other heads of state of governments"

The six — Majalefa Sefatse, 30, Reid Mokoena 22 Oupa Diniso 30, Theresa Ramashola, 24, Duma Khumalo, 29, and Francis Mokgesi, 29 sentenced to death for the murder of Sharpeville councillor Kuzwayo Dlamini during the Vaal uprisings in September 1984 — are due to hang on Friday after President Botha rejected local and international appeals

The move comes amid mounting international and local pressure

Mrs Thatcher personal appeal

MOTHER'S PLEA Mrs Julia Ramashamola, whose daughter has been sentenced to hang

Mr Reagan urges clemency

From page 1

Cape Times 16/3/88 331 252

Sharpeville Six

A Justice Department spokesman confirmed yesterday the President had turned down the last appeal

Countrywide stayaways and protest meetings against the hangings are being planned for this week by political groups, trade unions, student and youth organizations

The Save The Sharpeville Six Campaign Committee said it was planning a stayaway tomorrow and on Friday

Our Political Staff reports that in the House of Assembly yesterday, two cabinet ministers and an NP MP emphatically rejected clemency appeals

Justice Minister Kobie Coetsee said in reply to a question by PFP MP Peter Soal that no grounds could be found to commute the death sentences

Law and Order Minister Adriaan Vlok criticized "political interference", saying he could not interfere with a decision of "the highest court in the land"

Suzman said if government proceeded with the executions at a time when SA's image was at its lowest level ever, it would be "reckless in the extreme and very provocative" and "sheer madness"

Appeals for clemency and condemnation of the sentence have been received from numerous national and international organizations during the past months and, as the execution date draws near, more people are adding their names to the list of those who do not think the six should hang.

A Department of Justice spokesman said yesterday that every petition for clemency for the six, "no matter how slenderly motivated," would be considered

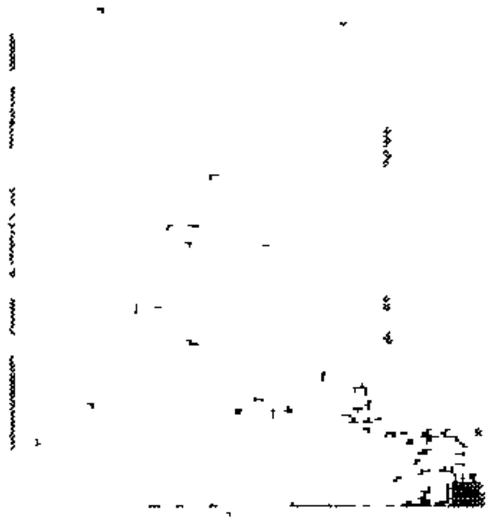
"It must be made clear however that any and all petitions or appeals made in cases of the death penalty are given careful consideration" the spokesman said

In Washington White House spokesman Mr Marlin Fitzwater said that President Reagan urged clemency on compassionate and humanitarian grounds

"We implore South Africa to respond favorably to these requests An act of compassion such as this by the South African government would be welcomed favorably by all Americans," Mr Fitzwater added

In London yesterday Julia Ramashamola and Joyce Mokhesi, relatives of two of the six, met British PM Margaret Thatcher at Downing Street

16/3/88



Julia Ramashamola, whose daughter is one of the "Sharpeville Six" who are due to hang, holds a poster issued as part of the campaign to save them. She met British Prime Minister Margaret Thatcher in London yesterday as the international campaign to save the "Six" was stepped up. 52 B/day

Pressure is mounting on President Botha as urgent last-ditch moves are made in an attempt to save the Sharpeville Six from going to the gallows on Friday.

Lawyers are making a desperate Supreme Court appeal in Pretoria today to save the six, who were sentenced to death for complicity in the stoning and burning to death of Lekoa deputy-mayor Mr Jacob Dlamini in 1984.

The six are Mojalefa Sefatsa (32), Reid Mokoena (24), Oupa

(252) STAR 16/3/88

LATE EDI

Pressure on PW to reprieve Sharpeville Six

Diniso (32), Duma Khumalo (28), Francis Mokgesi (30), and Theresa Ramashamola (26).

Lawyer Mr Prakash Diar said after visiting the six on Death Row: "Their spirits are very high. It's unreal"

Progressive Federal Party leader Mr Colin Eglin and justice spokesman Mrs Helen Suzman have been granted an urgent interview with Mr Botha to plead for clemency.

Heavy international pressure is also being brought to bear. President Reagan of the United States, British Prime Minister Mrs Margaret Thatcher and West German Chancellor Mr Helmut Kohl have all intervened with pleas for clemency.

Mrs Thatcher told the House of Commons yesterday: "Britain and other Western governments have already urged the South African Government to exercise clemency in this case.

"In addition my office saw representatives of the Sharpeville Six this morning. I have also spoken to Archbishop Tutu. Although it is not our normal practice to intervene, in the particular circumstances of this case, our ambassador is speaking to the South African Government to express my hope that President Botha would see fit to exercise the prerogative of mercy."

Mrs Suzman did manage to raise the matter in Parliament during the House of Assembly debate on the crime situation prevailing in the country.

She appealed to Law and Order Minister Mr Adriaan Vlok to raise the matter with Mr Botha.

During court hearings, none of the six was found to have contributed to the injuries which killed Dlamini. But they were found to have associated themselves with the crowd which beat, stoned and hacked the councillor, then set his body alight. — Star Bureaux, Political Staff and Sapa-Reuter.

SHARPEVILLE SIX

THE decision to send six black South Africans to the gallows after one of the most controversial murder trials in the nation's legal history will inevitably be interpreted as a sop to right-wing Afrikaner opinion President Botha ignored an international campaign for clemency that included direct pleas from the United States and British governments

The death sentences handed out to the "Sharpeville Six" were challenged both in South Africa and abroad, not only for humanitarian reasons, but on carefully argued legal grounds

Six previously unpolticised township dwellers are waiting on Death Row at Pretoria Central Prison to be hanged for a murder they did not physically commit

The controversy surrounding the "Sharpeville Six stems less from the sickening nature of the crime — which was a particularly gruesome mob killing of a black municipal councillor — than from the legal procedure that determined their guilt No evidence was ever presented that any of the six directly participated in the murder of Khuzwayo Dlamini, the township's deputy mayor

They were found guilty on the unprecedented grounds that they were part of an angry crowd, some of whose members stoned Mr Dlamini into unconsciousness then set fire to his body

Attack

The attack occurred in September 1984 as the townships erupted in protest against rent increases imposed by black-run councils, which were perceived as agents of Pretoria Men like Dlamini were branded sell-outs The penalty for collaboration was death

After hearing evidence in the Sharpeville case, the trial judge adopted the previously innocuous legal doctrine of guilt through "common purpose'

Although he accepted there was no proof that the six accused had "contributed causally" to Dlamini's death, the court ruled that they had shared a "common purpose" with a mob intent on murder

Waiting to die for being part of a crowd

Sowetan 16/3/88

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FOCUS

Whoever the actual killers were, the six accused were effectively deemed accessories to the crime For this, they were sentenced to hang The verdicts were upheld on appeal

Critics of the judgment say its implications are far-reaching If a man is killed in confrontation involving a crowd of 1 000 people, any or all of those present might be found guilty of murder and be hanged

Evidence

The judgment established for the first time in South African law that conduct not proved to contribute causally to a death can none the less lead to conviction for murder" said Mr Edwin Cameron of the University of the Witwatersrand's law department Legal concern was further heightened by discrepancies in the evidence linking some of the accused to the crime One of the key witnesses admitted he had been told by police whom to blame

Doubts persist whether two of the men convicted Francis Mokhesi and Moses Diniso were present when Dlamini died

Theresa Ramashamola (24) is the only woman among the six Before the attack she worked as a waitress at a restaurant called Burger Box

IN this article on six Sharpeville residents sentenced to death for murder and due to be hanged on Friday, TONY ALLEN-MILLS of the *Independent News Service* considers why President Botha chose not to exercise his prerogative of clemency

Her alleged crime was to shout He s shooting at us, let s kill him" — a charge she denied — and to slap another woman who had protested before Dlamini was burned

For those two outbursts — no other evidence was presented — Ramashola was sentenced to death

"If there was ever a case for the President to exercise his discretion and grant clemency this is it the lawyer for the six Mr Prakash Diar said

The court accepted that they did not actually do the killing — they got caught up in the crowd'

Whether Mr Botha weighed carefully the legal aspects of the case is anyone s guess All avenues of appeal had been exhausted

Influenced

Only a presidential reprieve could have saved the 'Sharpeville Six' — and it was not forthcoming Mr Botha has given no hint of how he reached his decision but it does not seem unreasonable to speculate that he was influenced by more than the finer points of law

International appeals for mercy pressure from the Afrikaner right and Mr Botha s personal feelings about Sharpeville may certainly have helped to make up his mind

PRESIDENT Botha no mercy

Of these factors the last mentioned is simultaneously the most intriguing and the most difficult to gauge

Last year Mr Botha paid a well-publicised visit to Sharpeville — where 69 blacks were shot dead by police on March 21 1960 — and was treated like a god

A carefully orchestrated welcome by black Sharpeville schoolchildren hardly impressed the President s enemies, and one may reasonably have expected Mr Botha to be generous to a long-suffering black community that greeted him with cheers

Unrest

Militating against such generosity, however is Pretoria's determination to protect its black municipal authorities from renewed political unrest

The fears in radical circles that Mr Botha would make an example of the "Sharpeville Six" to discourage any prospect of intimidation of black candidates during township elections scheduled for October this year have proved all too real

Pretoria hopes to foster the growth of a new generation of compliant black municipal councils which will supervise the Government s ambitious schemes for upgrading the townships

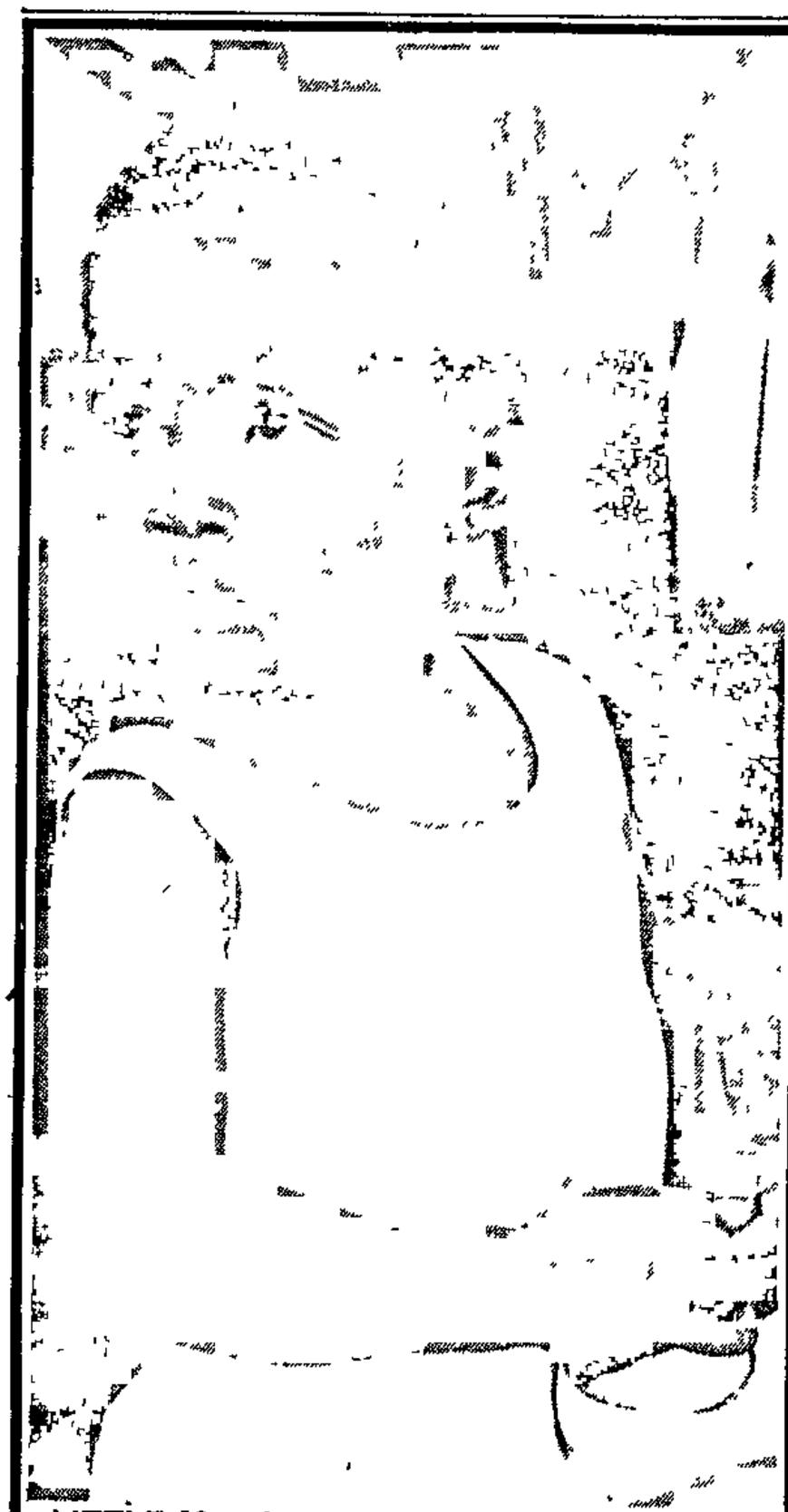
If black South Africans can be hanged merely for belonging to a maddened crowd they may think twice about taking to the streets

Nor can pressure from the Afrikaner right easily be ignored Reprieves of blacks convicted of murder would inevitably be portrayed by the Government's right-wing enemies as further signs of weakness

Mr Botha had to balance the hostile Afrikaner reaction that clemency would have elicited against the equally hostile international reaction when mercy was declined Tragically, he chose the domestic solution

Political comment in this issue by J Latakgomo and A Klaaste Sub-editing, headlines and posters by S Matlhaku All of 61 Commando Road, Industria West, Johannesburg

• Write to the Editor at PO Box 6663, Johannesburg 2000 Nom-de-plumes can be used, but full names and addresses should be supplied or the letter will not be published



LITTLE Masefatsa Sefatsa . . father to face hangman.

Sowetan 16/3/88

Girl admits story was fabricated

AN UNIDENTIFIED man was hacked to death by a mob in Mohlakeng, Randfontein, as rumours of "ambulance abductors" continued to spread through black townships on the Reef.

SOWETAN Reporter

According to a witness, the man, believed to be a Zimbabwean immigrant was walking in the street together with a friend on Monday when a mob of schoolchildren confronted them and accused them of being involved in the abduction of children in the township

A resident, who wished not to be identified, said the two men tried to run away He said the Zimbabwean tried to seek refuge in a nearby house, but the mob soon caught up with him

"They dragged him out of the house and started assaulting him with an assortment of objects, including garden forks, shovels and pick handles The poor man died on the spot He was beyond recognition," the resident said

His friend is believed to have been rescued by town council police

The incident was confirmed by a spokesman for the Police

• To page 2

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Court bid to save 6

AN APPLICATION for a stay of execution for the "Sharpeville Six" is to be presented to the Rand Supreme Court this morning, the group's legal representative told Sapa last night.

He said he had spoken to his clients yesterday and papers were being drawn up last night in an attempt to halt the execution scheduled for Friday.

The case of the six, sentenced to hang for the murder of a Sharpeville town councillor in 1984, has drawn top-level appeals for clemency, including two from major Western leaders

In London, the British Prime Minister, Mrs Margaret Thatcher, said in the House of Commons yesterday that she had personally appealed to the State President, Mr P W Botha, for clemency for the six

West German President Richard von Wiesaecker also sent a letter to Mr Botha requesting clemency

Mrs Thatcher also told the House of Commons that she had spoken to Archbishop Desmond Tutu on the issue

Earlier yesterday, two relatives of the "Sharpeville Six" went to Downing Street to ask Mrs Thatcher to intervene.

Mrs Julia Ramashamola and Mrs Joyce Mokhesi spent 30 minutes with two of Mrs Thatcher's aides and told them that a personal plea to the State President was their only hope.

"I have no hope," Miss Mokhesi, sister of one of the six, said after meeting two of Mrs Thatcher's aides

If Mrs Thatcher spoke personally to Mr P W Botha "it could make a difference," Miss Mokhesi said. "But if she sends an ambassador there is no hope "

The women were to travel to Bonn and Washington seeking help from West German chancellor, Mr Helmut Kohl, and American president Ronald Reagan.

• See Pages 5, 6 and 7

Bid to avert executions

B/day 16/3/88

(252)

SIPHO NGCOBO

LAWYERS acting for the "Sharpeville Six" will bring an urgent application in the Pretoria Supreme Court today in a bid to head off the planned executions, which unleashed a storm of protest yesterday

The legal team was drawing up papers last night in preparation for the application, said lawyer Prakash Diar.

British Prime Minister Margaret Thatcher took the unusual step yesterday of making a personal appeal to the SA government to spare the lives of the six

She told the House of Commons she had instructed Britain's ambassador in SA "to express my hope that President P W Botha would see fit to exercise the prerogative of mercy".

The six — sentenced to death for the murder of Lekoa deputy mayor Kuzwayo Dlamini during the Vaal uprisings in September 1984 — are due to hang on Friday, after President P W Botha rejected local and international appeals

PFP leader Colin Eglin and national chairman Helen Suzman are to see Botha tomorrow to urge him to use his discretionary powers of clemency

The move comes amid mounting international and local pressure

A Justice Department spokesman confirmed yesterday the President-in-Executive-Council had turned down the

● To Page 2

Graphic FIONA KRISCH Source RESERVE BANK

Bid to avert execution of 'Sharpeville Six'

B/day 16/3/88

● From Page 1

(252)

last appeal.

Countrywide stayaways and protest meetings against the hangings are being planned for this week by political groups, trade unions and student and youth organisations.

Nactu said "It is clear to the oppressed, exploited and dispossessed that the hanging of the comrades is a matter dictated by interests beyond the ordinary process of the law.

"It is on record that not a single witness could testify that the comrades sentenced to death were seen or had anything to do with the actual killing of the community councillor or any person for that matter."

Our Political Staff report that two Cabinet ministers and an NP MP rejected clemency appeals in the House of Assembly yesterday.

Justice Minister Kobie Coetsee said no grounds could be found to commute the death sentences

Desperate bid to save six

South 252

LAWYERS today launched a last desperate bid to save the lives of the "Sharpeville Six" — due to hang in Pretoria Central Prison on Friday morning.

17-23/3/88

The Archbishop of Cape Town, Desmond Tutu, also met with State President PW Botha on Wednesday to personally plea for clemency for the five men and a woman.

Tutu said at a press conference held at Jan Smuts Airport that Botha had told him he did not want to interfere in the legal processes. He would only do so if approached by a judge or if new evidence came to light. So far this had not happened.

Political slaying

Tutu said the meeting "did not end amicably".

Lawyers for the six, sentenced to death for the political slaying of township deputy mayor Jacob Dlamini in 1984, went to court this morning to ask for a stay of execution and a retrial — less than 24 hours before the hangings.

According to their lawyer, Denis Kuny, one of the two major state witnesses in their 1985 trial has since admitted that he lied to the court.

Joseph Monete now claims he was repeatedly assaulted by police, who ordered him to implicate two of the six in the Dlamini killing, Kuny said.

• See page 5

PW won't step in to stop Six's hanging

(252) Cape Times 17/3/88

Staff Reporter

PRESIDENT P W BOTHA will not intervene to save the lives of the Sharpeville Six — the five men and a woman due to hang in Pretoria tomorrow for the 1984 murder of a Sharpeville councillor.

This follows an appeal by Archbishop Desmond Tutu during a 40-minute meeting with Mr Botha yesterday.

Political Correspondent ANTHONY JOHNSON reports that President Botha and various cabinet minister have made it clear they would abide by any decision made by the courts.

President Botha said: "I am not willing to place the independence of the South African judiciary in jeopardy.

"I can only act according to convention — that is — if a judge informs me that there are extenuating circumstances which he did not tell me, or if there are new facts or evidence that were not before me before."

According to church spokesman Mr John Allen, Archbishop Tutu was told that if new evidence arose from a Supreme Court action being held in Pretoria in connection with the six, there would be a review. But Mr Botha would not intervene personally.

The Supreme Court, Pretoria, yesterday heard an urgent application for a stay of execution after allegations that a key witness in the trial of the Sharpeville Six was forced to make a false statement after being assaulted by police.

Mr Denis Kuny SC, for the six, submitted affidavits from witness Mr Joseph Manete, referred to in the trial as "Mr X2".

Mr Manete said he was forced to make a statement on the murder of the councillor in which he mentioned the names of two of the six — Don Mokhesi and Duma Khumalo. He said the names were given to him by the police.

"I was questioned by two policemen and one was a Schoeman. I was assaulted by the other policeman, and not Schoeman. — I was punched about three times on the head."

In argument, Mr Kuny said that although Mr Manete had in his evidence implicated only two of the six in the murder, if his evidence was in question it had a bearing on all of the six.

Mr Kuny said Schoeman was the investigating officer and was alleged to have been involved in the alleged confession of another of the six.

He asked for a stay of execution pending the filing of a substantial application for leave to reopen the case.

The application is being heard by Mr Acting Justice Human, the trial judge who originally sentenced the six to death.

Mr Justice Human adjourned the hearing to today.

Today's hearing will coincide with a visit by two PFP MPs, Mrs Helen Suzman and Mr Colin Eglin, to the State President on the matter.

Yesterday's meeting was attended by the archbishop, the president, the Minister of Justice, Mr Kobie Coetsee, the director-general in the State President's office and the archbishop's personal assistant, Mr Matt Esau.

Last night Archbishop Tutu expressed his "extreme distress" at President Botha's decision

Mr Allen said: "The archbishop's appeal to President Botha was to intervene personally and not made on legal grounds. He simply asked for mercy to be shown."

The Anglican Church also cancelled today's talks with the Ned Geref Kerk and called on the NGK executive to join Anglican leaders in prayers for the Sharpeville Six.

Archbishop Tutu said the cancellation was a result of "the extraordinary attack made on our church" by the NGK's General Synodical Commission yesterday.

● Western leaders can save Six — Page 3

Over 40 on death row for political reasons

More than 1 100 have been hanged in South Africa in the past 10 years.
The condemned on death row at Pretoria's Central Prison are told seven days in advance they are going to die.
"There can be no greater terror for any human being than knowing the exact moment of one's death", a conference was told at the weekend

JOHANNESBURG. - Public interest in hangings had been heightened because more than 40 people currently on death row were political prisoners, the National Conference of the Black Sash in Johannesburg heard at the weekend.

Ms Sheena Duncan, National Advice Office director of the Black Sash, said the concern for these prisoners was "being translated into a wider concern for the many more people who are awaiting the day when they will be put to death".

More people than ever before were questioning capital punishment.

"We can push for an independent commission of inquiry. We can intensify efforts to persuade the State President to exercise his powers to grant clemency in all cases - not just in the case of political prisoners.

"We can do these things to get capital punishment abolished in our country," said Duncan.

If hangings were carried out in public the public would "at least know of the dreadful things that are done in their name".

"The citizens would see that death is not always instantaneous. They would know what the cold and deliberate taking of life means," she said.

Terror inflicted

Altogether 1 114 people had been hanged over the past ten years in South Africa. At the end of 1987 there had been 268 people on death row.

Those who are going to die are told seven days in advance of the date of their death

"There can be no greater terror inflicted on any human being than knowing in advance the exact moment of one's death.

"The deliberate, planned killing of any person not only debases those who carry out the hanging and those who must witness it. It is the responsibility of all of us," said Duncan

"To remain silent makes each of us a party to each judicial killing."

She pointed out that judges in South Africa and other countries had been divided on the issue of capital punishment. Some had spoken out against it while others had supported it

Amnesty International asked the Black Sash in 1979 to "use all appropriate means to persuade members of the government and other relevant authorities of the need to achieve the total abolition of the death penalty in South Africa."

In 1969 MP Mrs Helen Suzman of the Progressive Party had introduced a motion in parliament asking the government to establish a commission of enquiry into capital punishment The motion had been overwhelmingly defeated.

"The Minister of Justice argued that there was a negligible public demand for abolition," Duncan said.

Ms Sheena Duncan of the Black Sash

Cape Times 17/3/88 (252)

Western leaders are 'the only ones' who can save the Six

NEW YORK. — Zam a yesterday called for an urgent UN Security Co ncil meeting to consider the fate of the Sharpeville Six as leaders of the major Western powers urge President P W Botha to grant them clemency.

Amid mounting overseas and local concern for the six, who face execution at Pretoria Central Prison tomorrow at 7am, their defence lawyer told Sapa that "they don't want mercy, they want justice ..."

Mr P Diar said after visiting them in prison on Tuesday: "They believe that Ronald Reagan, Margaret Thatcher and Helmut Kohl are the only people who can save them."

The six, aged 24 to 32, were not convicted of direct involvement in the killing of Sharpeville township counsellor Mr Jacob Dlamini, who was stoned to death and burned during a black uprising. But an appeals court ruled they were guilty because they had common purpose with the perpetrators.

Meanwhile French President Francois Mitterrand, right-wing Premier Jacques Chirac and Italian Foreign Minister Mr Guilio Andreotti joined the worldwide calls for clemency saying President Botha should listen to the appeals from world leaders such as Prime Minister Margaret Thatcher of Britain, President Richard von Weiszaecker and Chancellor Helmut Kohl of West Germany, President Ronald Reagan and UN Secretary-General Mr Javier Perez de Cuellar.

West German Foreign Minister Mr Hans-Dietrich Genscher yesterday told the relatives of two of the six, Mrs Julia Ramashamola, mother of Theresa Ramashamola, the only woman among the six, and Ms Joyce Mokgesi, sister of Francis Mogkesi, that he would ask South African officials to spare their lives

The other four condemned men are Mojalefa Sefatsa, Reid Mokoena, Oupa Diniso and Duma Khumalo

In the French capital, a number of political and anti-apartheid organizations plan to demonstrate outside the South African Embassy.

In a rare show of unanimity the House of Commons yesterday united to call on President Botha to spare the lives of the six. The same degree of unanimity was evident in the leading articles of major British newspapers.

The European Community also urged the government to spare the lives of the six as government leaders in Spain and Sweden joined numerous appeals from around the world to commute the death sentences.

East Germany said the hanging of the six would be a "planned crime" which "speaks volumes for President Botha's ideas of law and justice".

The World Council of Churches also issued an appeal saying "such an act of magnanimity will be in the best interest of all people of SA and abroad".

Vigils for the six have been organized in Port Elizabeth, Cape Town, Pretoria and Johannesburg. — Own Correspondent, Sapa-Reuter-AP and UPI

Fate of six depends on court action

17/3/88 Star

Staff Reporters

The fate of the Sharpeville Six, condemned to die tomorrow, now depends on court action being heard in Pretoria while calls for clemency echo around the world.

President Botha told Archbishop Desmond Tutu last night that unless new evidence came to light, he would not intervene in the execution of the five men and a woman sentenced to death after being convicted of complicity in the murder of Mr Jacob Dlamini, the Deputy Mayor of Lekoa, near Sharpeville.

"We are now hoping a miracle will happen," Bishop Tutu told reporters at Jan Smuts Airport last night shortly after meeting President Botha to plead for clemency for the six.

"Unless the court were to find new evidence, the chances seem very, very slim," he said.

The six, Mojalefa Sefatsa (32), Reid Mokoena (24), Oupa Diniso (32), Duma Khumalo (28), Francis Mokgesi (30) and Theresa Ramashamola (26), have less than 24 hours to live if their appeals fail. They are due to be hanged at Pretoria Central Prison tomorrow morning.

ADJOURNED

Trial judge Mr Acting Justice Human yesterday adjourned the Supreme Court urgent application for a stay of execution until today. Lawyers acting for the six claimed in papers that a State witness was assaulted and coaxed to give untrue evidence.

Yesterday, Bishop Tutu said President Botha explained "in a very rational way" that he would grant clemency only if a judge specifically referred a case to him or if new evidence arose after the trial.

Since the Sharpeville Six fell into neither of these categories, he said he would not interfere because South Africa had an independent judiciary.

Bishop Tutu said he had contacted the British Prime Minister, Mrs Margaret Thatcher, and the US Secretary of State, Mr George Shultz, through their ambassadors in South Africa, to ask them to appeal to Mr Botha to exercise clemency.

Mrs Thatcher has already made such an appeal.

Sharpeville Six: Botha will not intervene

● From Page 1

year Despite an international campaign in support of the six, an appeal to Botha for clemency failed this week

In yesterday's court action, Denis Kuny SC, for the six, submitted affidavits from witness Joseph Manete, referred to in the trial as "Mr X2"

In one, Manete, whom the judge had ruled could not be cross-examined at the trial, waived his rights in this respect

In another, Manete said he was forced to make a statement on Dlamini's murder in which he mentioned the names of two of the six — Don Mokhesi and Duma Khumalo He said the names were given to him by the police

"I was also forced to say that Reverend Moselane and other UDF leaders had meetings in Sharpeville and inflamed people to protest against high rentals All the names were furnished by the police

"I was questioned by two policemen and one was a Schoeman I was assaulted by the other policeman and was punched about three times on the head"

In argument, Kuny said although Manete had implicated only two of the six in the murder, his evidence had a bearing on all of the six if it was in question

Manete's evidence was used in corroboration of other evidence His statement that he was assaulted also raised the issue of police conduct in the case and put in question the evidence of other witnesses

Kuny pointed out Schoeman was the investigating officer and was alleged to have been involved in the alleged confession of another of the Six.

He asked for a stay of execution pending the filing of a substantial application for leave to re-open the case.

Mr Justice Human adjourned the hearing to today after asking Kuny to supply information on the circumstances which led Manete to sign a waiver of his rights on Tuesday, as well as how he came to see the attorneys representing the six

Pieter van Wyk appeared for the Transvaal Attorney-General The other respondents — the Minister of Justice, the Minister of Law and Order, the Transvaal Sheriff, and the Officer Commanding Pretoria Maximum Security Prison — were not represented

Six: PW will not intervene

17/3/88

CAPE TOWN — President P W Botha told Anglican Archbishop Desmond Tutu last night he would not intervene personally in the case of the Sharpeville Six who are due to be hung in Pretoria tomorrow.

The 40-minute meeting at the President's Cape Town offices came after Tutu appealed for a personal meeting with Botha, church spokesman John Allen told Sapa.

Allen said Tutu was told there would be a review if new evidence arose from the urgent Supreme Court action being held in Pretoria in connection with the Six

ROGER SMITH reports that the basis of the urgent Supreme Court application yesterday for a stay of execution hinged on new allegations that a key witness in the trial of the Six was forced to make a false statement after being assaulted by police

The six are due to hang for the murder of Lekoa deputy mayor Kuzwayo Dlamini on September 3, 1984

The application is being heard by Acting Justice Human, the trial judge who originally sentenced the six to death in a controversial judgment

An appeal by the Six was dismissed by the Appellate Division in December last

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Gallows countdown for Sharpeville Six

ARGUS 17/3/88 (252)

THE fate of the Sharpeville Six, due to hang tomorrow morning, could depend on the outcome of today's urgent application to the Supreme Court in Pretoria in more ways than one

President Botha today told Progressive Federal Party leader Mr Colin Eglin and Mrs Helen Suzman, the party's spokesman on justice matters, that new facts could be introduced in court today that could affect his final decision even if the court upheld the death sentences

An urgent application, based on the contention that a key witness in the trial had been forced to give false evidence, was launched yesterday Judgement was expected at 11,30am today

The PFP delegation met President Botha and the Minister of Justice, Mr Kobie Coetsee, for 45 minutes to discuss the death sentences and the possibility of commuting them

COURT CASE "PIVOTAL"

Mr Eglin said Mr Botha had outlined the procedures followed in commuting death sentences, and that the tradition had been not to interfere with the courts in such decisions unless there were indications from the judges of other factors.

There had been none in this case The President was now waiting to see whether there would be any significant factors arising from today's court hearing.

Mr Eglin said Mr Botha had listened "patiently and intently It is quite clear that what happens in court today is pivotal"

The South African Government has come under huge international pressure to stay the death sentences of the Sharpeville Six

However, Deputy Minister for Information Dr Stoffel van der Merwe said the Government rejected any pressure to allow political considerations to influence a decision on clemency

Such a step would send out a signal that politically motivated murder was a less serious crime and that every citizen would now be exposed to it; he said at a special press briefing today

CRUCIAL MEETING: The leader of the Progressive Federal Party, Mr Colin Eglin, and the party's national chairman, Mrs Helen Suzman, head for Tuynhuys where they met President Botha today to discuss the fate of the Sharpeville Six

PERSONAL APPEAL

United States Secretary of State Mr George Shultz has telephoned Foreign Minister Mr Pik Botha in an intensification of American pressure on the Government to prevent the executions

A US State Department spokesman said Mr Shultz's personal plea to Mr Botha yesterday "reinforced" a formal appeal the US embassy in Pretoria had made to the Government

In what is seen as an unusual intervention, President Reagan yesterday called for mercy on compassionate and humanitarian grounds

In London, the Pan Africanist Congress has added its voice to calls on Mrs Thatcher to intervene personally to save the lives of the Sharpeville Six.

The PAC's foreign secretary Mr Gora Ebrahim handed a letter in to 10 Downing Street yesterday He was accompanied by Labour MPs, Anti-Apartheid Movement activists and trade union leaders

A crowd of more than 300 people gathered outside 10 Downing Street, displaying posters urging "Thatcher, ring Botha now Save the lives of the six", and chanting "The Sharpeville Six must not hang" and "Apartheid embassy out of Britain"

RELATIVES TOLD

At the United Nations, the Security Council yesterday unanimously urged the South African Government to stay the executions

In Rome, Foreign Minister Mr Giulio Andreotti said he had instructed the Italian ambassador in Pretoria to appeal to South African authorities to call off the scheduled executions.

In Madrid, the Spanish Foreign Ministry summoned the South African Ambassador yesterday to plead for the lives of the Six.

In Bonn, West German Foreign Minister Hans-Dietrich Genscher yesterday told the relatives of two of the Six he would ask South African officials to stay the executions

West German Chancellor Helmut Kohl and President Richard von Weizsaecker have also appealed to South Africa to spare the Six.

Dr Kohl, in his capacity as president of the European Council appealed to President Botha today "on humanitarian grounds to exercise clemency and to spare the lives of the Sharpeville Six"

Japan has also urged the Government to stay the executions, and New Zealand sent a rare message to South Africa asking for the Six to be spared. — Political Staff, Argus Foreign Service, Sapa-AP-Reuter

Waiting to die

A DEVOUT Catholic will be the first woman to be executed for a political offence when she goes to the gallows on Friday

Theresa Ramashamola, 27, is one of six Sharpeville residents sentenced to be hanged this Friday after being convicted of murder. The others are Mojleta Sefatsa, 32, Reid Malebo Mokoena, 24; Oupa Moses Diniso, 32; Duma Joshua Khumalo, 28; and Francis Don Mokgesi, 30.

President P W Botha this week refused to stop the hangings, in spite of local and international calls for clemency.

Family and friends spoke of Theresa as a religious girl who left Shandu High School, Sharpeville, in Standard Eight.

She was working as a roadhouse waitress when she was arrested in 1985, and has been in prison for more than three years.

Theresa's sister, Josephine, a Standard Ten pupil, spoke to SOUTH at the family's four-roomed house in Sebokeng.

Josephine described her sister, whom she used to visit at Pretoria Central Prison, as a friendly extrovert who could not hurt anyone.

Religious

"She is a religious person who attended church services regularly," she said, adding that although her sister liked to mix with friends she was very close to her mother.

Theresa's father died while she was at school. The elder sister, Celestinah, died in 1977 after a short illness.

Josephine recalled how Theresa like music and knitting, and that she wrote warm letters from prison consoling and encouraging the family.

She always told the family not to worry because God was one their side and would answer their prayers. She always believed she would be free

Mrs Moipaine Ramashamola, a laboratory technician at Sebokeng Hospital, was in London this week to canvass international support for a campaign for clemency for her daughter and the other five.

Mrs Ramashamola was accompanied by Mrs Joyce Mokgesi, whose son is also to hang.

A close friend, who asked not to be identified, described Theresa as a strong person.

"She always encouraged us and talked endlessly," the friend said

"She spent three birthdays in prison and celebrated them by buying a cake."

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IF Theresa Ramashamola hangs tomorrow morning, she will become the first woman in South Africa to be hanged for her political beliefs.

The United Women's Congress takes note of the unprecedented international calls for the execution to be stopped. Should the State choose to ignore the strong feelings of our people both inside and outside the country, it will be a final statement of the heartlessness of the men who rule our land.

We do not wish to beg for the hangings to be stopped. We wish to warn that should the hanging proceed such continued insensitivity will only hasten the downfall of this government.

To Theresa we say we are with you every minute of the day as you wait to hear whether your life will be spared.

We salute your courage and that of all those on death row with you.

Aluta Continua

UNITED WOMEN'S CONGRESS

Business Day

DAY, MARCH 18 1988 50c (45c + 5c tax)

AL and CAPE 80c (71c + 9c tax)

A TIMES MEDIA PUBLICATION

B/day 18/3/88

'Sharpeville Six' get stay of execution

ROGER SMITH

PRETORIA — The Pretoria Supreme Court yesterday granted a stay of execution to the "Sharpeville Six" — who were due to hang at 7am today — in a day marked by protest action and appeals to President P W Botha for clemency.

News of the reprieve was welcomed locally and internationally while family and friends danced in the streets of Pretoria

Police took action against a prayer meeting and a student demonstration in Johannesburg and arrested Black Sash protesters in Cape Town

The 29 Black Sash members — among them national president Mary Burton — appeared in the Cape Town Magistrate's Court in connection with possible charges of attending an illegal gathering near Parliament. They were not asked to plead.

At Wits University, riot police acted against about 1 000 protesting students on the university campus and briefly held two international TV crewmen

Police ordered an end to a Lekton House meeting convened by Nactu in central Johannesburg.

There was a jubilant response from family and friends at the Pretoria court after the stay of execution was granted.

Julia Mokoena, sister of one of the six — Reid Mokoena, said "I'm very happy, I think it's going to be OK now, I think it's going to be OK."

● See Page 3

Mobbed by well-wishers, reporters and TV crews, the attorney for the six, Prakash Diar, said they had never known for certain what the outcome of the court application would be.

Sapa reports the granting of the stay of execution was greeted by Archbishop Desmond Tutu with "a tremendous sense of relief and I give praise to God"

He said at a meeting of Anglican Bishops at St Alban's Cathedral in Pretoria that hope had been increased by the outcome of the application.

Referring to the accusations against him by Botha, Tutu said he would re-

● To Page 2

'Sharpeville Six' granted stay of execution

B/day 18/3/88

● From Page 1

spond on TV "if I am given equal time".

MIKE ROBERTSON reports from London the reprieve was widely welcomed by international leaders, including West German Foreign Minister Hans-Dietrich Genscher and Commonwealth secretary-general Sir Shridath Ramphal.

British Prime Minister Margaret Thatcher told the House of Commons she welcomed the news but still would not commit herself to personally intervening with a telephone call to Botha.

PFP national chairman Helen Suzman said after she and PFP leader Colin Eglin met Botha yesterday morning he had made it plain the decision to hang the six would stand unless new factors or evidence relating to the case became available.

She said, however, the meeting was a "worthwhile visit" during which Botha listened "earnestly" to the arguments they put forward in favour of having the six's death sentences commuted.

Information Deputy Minister Stoffel van der Merwe said government could not accede to "politically motivated" requests to commute the death sentences of the six as this would undermine the country's legal system.

But, he said this did not mean that calls for a reprieve would disqualify individuals on death row from possibly having their sentences commuted.

● See Pages 3 and 4

. LEFT: Tunnel vision . . . a motorist's view of the brilliantly lit tunnel.

Wage freeze a 'diversionary tactic'

Labour Reporter

The Post and Telecommunications Workers' Association (Potwa), reacting to Wednesday's budget announcement, said postal workers would continue to reject the Government's plans to freeze wages for public sector employees.

In a statement yesterday Potwa general secretary Mr Kgabisi Mosunkutu said the wage freeze was a "diversionary tactic" to cover up the "real" causes of inflation.

These were "apartheid and the bantustans, which are riddled with corruption and are maintained through a ruthless policy of repression and minority domination".

"The maintainance of the undemocratic institutions such as the tricameral Parliament and the plethora of Ministers and deputy Ministers is a shining example of the vast wealth and resources of the country going down the drain in the name of apartheid.

"As workers in the post office we say that we reject totally the wage freeze strategy of the Government. The attempts to persuade big business into supporting its wage freeze must be rejected.

"Workers will continue to demand the banning of useless, wasteful, undemocratic structures," said Mr Mosunkutu.

Worker action likely over 1960 shootings

Black workers are expected to take action on Monday, the 28th anniversary of the Sharpeville shootings, in protest against capital punishment and the recent imposition of restrictions.

A group calling itself the "Let the UDF Speak Committee" has distributed pamphlets in a number of black townships. There have also been calls by anti-apartheid groups for a "national day of protest".

"The racists have falsely claimed to have crushed our resistance. But three states of emergency, thousands of detentions, SADF/SAP terror methods and apartheid vigilantes have not been able to break the spirit of our people."

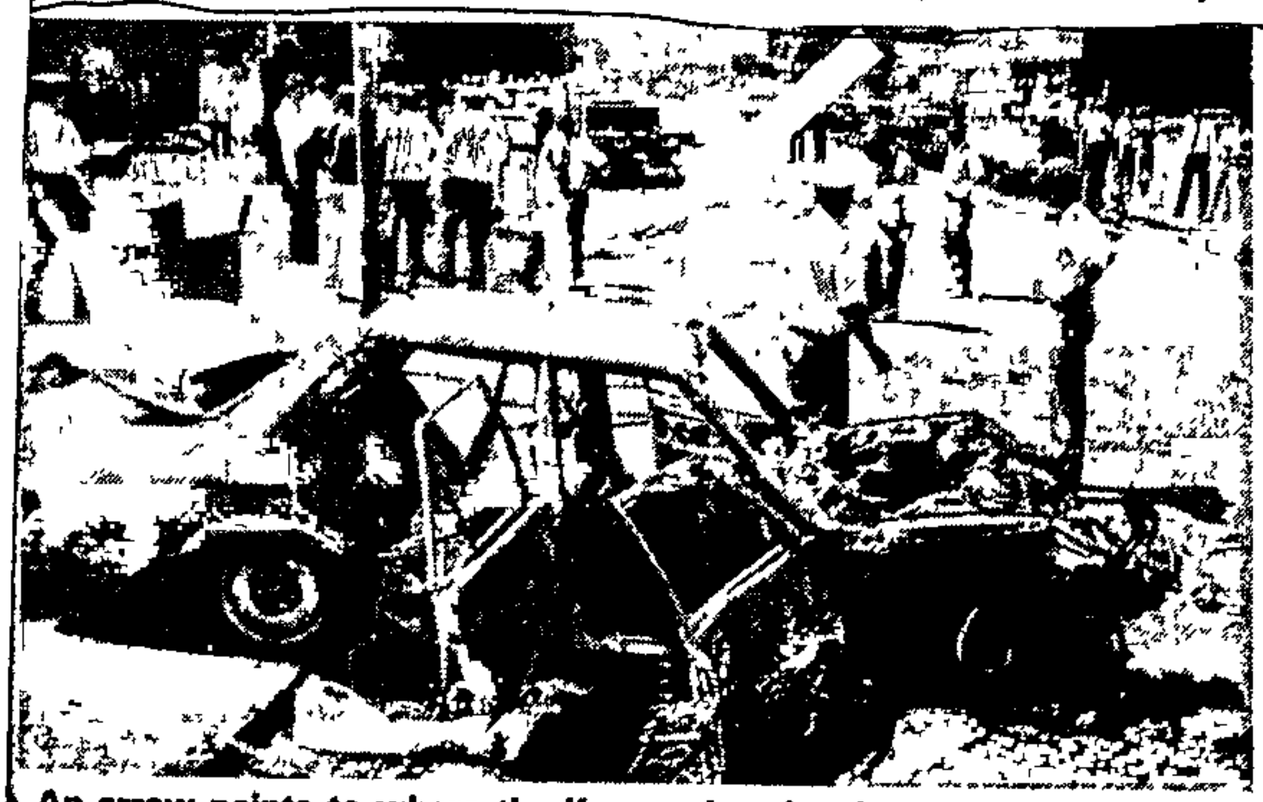
At least 17 organisations affiliated to the United Democratic Front (UDF) this week called for special church services on Monday to pray for the "downfall of the Botha Government, the tricameral system and Bantustan puppets".

This report has been amended and parts have been omitted to comply with the emergency regulations.

X Report Restricted

Journalists'

The State alleges these transac- He said for any criminal liability to tice Gordon



An arrow points to where the Krugersdorp bomb went off yesterday killing three people. The bomb was thought by police to be more powerful than the Johannesburg Magistrate's Court bomb. It shattered windows for blocks around the area and destroyed two parked cars.
Picture ROBERT BOTHA

I knew killings were unlawful — accused

18/3/88 SUE RUSSELL B/day

DETECTIVE-SERGEANT Robert van der Merwe admitted under cross-examination in the Rand Supreme Court yesterday that, before he shot two men he believed to be drug dealers with ANC contacts, he knew he would be acting unlawfully.

Van der Merwe and the suspended head of the East Rand Murder and Robbery Unit, Captain Jack la Grange, have pleaded not guilty to the murder of two alleged drug dealers and the attempted murder of a third

It is alleged they murdered Bennie Ogle in Ennerdale and attempted to murder Ernest Malakaone in Soweto on September 28-29 last year. The State also alleges they murdered Peter Pillay on October 4 last

Van der Merwe has told the court La Grange said Ogle and Malakaone were ANC drug dealers and head office had ordered their elimination. After the first two shootings La Grange said Pillay was an informer with ANC contacts and had to die.

Under cross-examination by the Attorney-General for the Witwatersrand, K von Lieres, SC, Van der Merwe said he knew the shootings were unlawful but had gone ahead with them. Mr Justice Irving Steyn asked if he had thought the matter would be swept under the carpet and Van der Merwe replied "yes".

Von Lieres asked him what he had thought as he faced Ogle and shot him five times

"I saw my dead colleagues outside the magistrate's court," Van der Merwe said, referring to last year's bomb blast in Johannesburg

The trial continues before Mr Justice Steyn and two assessors today.

Gallows: 'Six' win a reprieve

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B/day 18/3/88

ROGER SMITH

THE "Sharpeville Six" won a reprieve from the gallows in the Pretoria Supreme Court yesterday as a result of new evidence which is expected to bring about a re-trial.

Mr Acting Justice Human, who was also the trial judge who condemned the six to death in 1985, said he was "wholly convinced" there were sufficient grounds for a stay of execution.

In terms of the ruling, lawyers have until April 18 to bring applications for a re-opening of the case in which the six were convicted and sentenced to death for the murder of Lekoa deputy mayor Kuzwayo Dlamini in September 1984.

Mr Acting Justice Human said that during the trial of the six in 1985, he was informed by their counsel of a statement made by State witness Joseph Manete, then referred to as "Mr X2", in consultation with his attorney.

The judge said the statement was never made available, nor was he invited to peruse it, but he had declined to allow Manete to be cross-examined on it.

He said "Today I have before me the statement If it had been made available to me by counsel, I would have allowed cross-examination in the interests of justice."

Manete's statement alleged he was forced to make a false statement, naming two of the six.

Denis Kuny, SC, appeared for the six. They are. Mojalefa Sefatsa, 32, Reid Mokoena, 24, Oupa Diniso, 32, Duma Khumalo, 28, Francis Mokgesi, 30, and Theresa Ramashamola, 26

Man hanged for necklace murder

ARGUS 18/3/88

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The Argus Correspondent

PRETORIA. — A man due to be executed alongside the Sharpeville Six, who were reprieved yesterday, was hanged at 7am today, the Department of Justice confirmed.

Tsepo Letsoaro, 25, was sentenced to death last September for the necklace murder of Ms Nozipho Grace Mvetye on October 6 1985, near Motherwell Township, Port Elizabeth.

His execution at Pretoria maximum security prison today brings to 22 the number of hangings this year.

Ms Mvetye, who was accused by township residents of being an informer, was burnt to death after a tyre was placed over her head.

The court found there were no extenuating circumstances.

● See page 11.

HOW TEACHER WAS KILLED

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Sowetan 18/3/88

A SOSHANGUVE inquest magistrate heard that Mr Johannes Mogotsi (24), a Garankuwa teacher, lay helpless on the ground as he was repeatedly kicked by a white man in Sinoville, Pretoria.

By ALINAH DUBE

Mr David Phalatse, who was with Mr Mogotsi at the time of the incident, said this before Mr A C G Stander during an inquest into Mr Mogotsi's death

Mr Mogotsi died a day after he and other people were allegedly attacked by a group of white men in Sinoville· The incident took place at about 9pm on December 15, 1986 while they were on their way to Dennilton

With him were Mr Phalatse, Mr Reuben Phora, Mr Daniel Mogorosi and Miss Sizanne Molopyane

According to Mr Phalatse, five white men travelling in a car followed them in Pretoria North "We had just gone through a green light when the occupants of this car began swearing at us Mogotsi swore back but stopped after I had discouraged him from doing so "

"We decided to close the windows of our car as the white men continued insulting us As we drove on, we realised that the number of cars chasing after us had increaed to four," Mr Phalatse said

Beaten

The white men caught up with them in Sinoville A white man allegedly pulled out the ignition key of their car and Mr Mogotsi and himself were dragged out and beaten up

"I was kicked indiscriminately and assaulted with fists Mr Mogotsi lay helpless on the ground as our assailants were attacking him. About 18 men were involved in the assault," the witness said

A Sinoville resident, Mrs Lynn E Jones, earlier told the court that she saw a black man being dragged from underneath a car before he was assaulted by a white man. She said she became upset and cried after witnessing the incident

(Proceeding)

US troops

WASHINGTON — The United States is sending troops to Honduras as a show of force after Nicaragua troops crossed the border pursuing Contra rebels, the White House said on Wednesday. — Sapa-Reuter.

Well done girls!

THESE ladies of the lamp had no better way to show it than kiss at a graduation ceremony at the Baragwanath Nursing College. Registered general nurses and post-basic students were presented with diplomas and awards. The two are Daphne Mabale (left) and Tuwane Manalo. Both received the Principal's Prize.

Middle-aged lov

A WORD of advice to middle-aged sexual athletes if you overuse it, you abuse it

Born-again lovers who suddenly embark on mid-life sexual romps with mistresses or young wives risk contracting "overuse prostatitis" the Sixth General Practitioners' Congress was told this week

Dr Basil Michalides said the old maxim "If you don't use it, you lose it" did not apply to the middle-aged

Much had been documented about overuse injuries in middle-aged joggers, but every form of physical activity had its particular overuse injuries

Sexual overuse in middle-aged men and women was not exempt

Dr Michaelides said two cases stood out vividly, both 40 to 50-year-old men who previously had sexual intercourse once a week

One took a mistress

STAY OF EXECUTION

Sowetan 18/3/88

Defence applies for a retrial

Sharpeville Six given a month

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By JOSHUA RABOROKO and ALINAH DUBE

THERE was jubilation in the Pretoria Supreme Court yesterday after Mr Justice W J Human, granted a stay of execution for the Sharpeville Six.

The large crowd that had attended the hearing raised clenched fists and applauded the decision taken by Mr Justice Human

The stay of execution has been granted until April 18, when the defence will make an application for a retrial

In granting the application, Mr Justice Human said if he had known at the time of the trial about the newly revealed statements by the State witness, Mr Joseph Manete, he might have come to a different verdict

He said that there was now sufficient evidence before court for him to allow a stay of execution

Mr Justice Human also said local and foreign media had suggested that the Six had been condemned as though, it was reported, they had merely been "standing and talking" in a group He dismissed such reports as "nonsense".

He had found them to be "active participants" in the killing

In making the application, the defence counsel, Mr Dennis Kuny, SC, said they needed time to prepare evidence following a confession by a State Witness, Mr Joseph Manete

Result

He said Mr Manete's evidence was not only directed at the two accused — Mr Joshua Khumalo and Mr Don Mokhesi — whom he had implicated, but might have a result on all the remaining accused

He said Mr Manete had admitted in papers before the court that he falsely implicated the two

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Mission to UK

MISS Julia Ramashamole (left) and Miss Joyce Mokhesi (facing camera) looked optimistic as they were welcomed by relatives at Jan Smuts Airport following their three-week mission overseas to campaign for clemency for the "Six" A stay of execution was granted in the Pretoria Supreme Court yesterday

6 not to hang

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accused because he was forced to do so by the police

Mr Kuny applied for a stay of execution for a month so that the defence could prepare their case

In papers before the court, Mr Manete said a statement he made to the police implicating the two was not entirely true

"I went to Dlamini's house and saw a crowd of people stoning the house. Among the people I saw Khumalo and Mokhesi I saw both of them throw stones at Dlamini's house, but I did not see them actually pouring petrol on the house or stoning Dlamini himself.

"I also took part in the stone throwing but I did not take part in the stoning of Mr Dlamini," Mr Manete said in a statement

After the defence had made a submission, Mr Justice Human said "Now I know that Mr Manete did not tell the truth If I knew those facts at the time of the trial or if the defence could have brought them to my attention, I might have decided otherwise"

Earlier, the defence counsel, Mr Dennis Kuny, SC, had applied for stay of execution in order to prepare for another application for retrial He said they needed time to prepare evidence following the new evidence by Manete.

Clemency appeals 'based on court finding'

By Michael Tissong

Widespread international and local interest in the conviction of the "Sharpeville Six" has centred not so much on the fact that people have been sentenced to death for a politically associated offence, but on the reasoning for the sentence.

Mr Acting Justice Human convicted the six — Mojalefa Sefatsa (32), Reid Mokoena (24), Oupa Diniso (32), Theresa Ramashamola (26), Duma Khumalo (28) and Francis Mokgesi (30) — in the Transvaal Supreme Court on December 13 1985

The reason given at the time of the trial and when the sentence was later upheld in the Appeal Court was that they were found guilty on the basis of common purpose

It was accepted that the State had not proved that any of the six had "contributed causally" to the death of community councillor Mr Kuzwayo Dlamini

The State was unable to show that anything any one of them did actually caused or contributed to Mr Dlamini's death In the case of all six, there was doubt about whether any link could be made between Mr Dlamini's death and their actions and they were all held responsible for the actions of the whole crowd

Locally, the Congress of South African Trade Unions said "We reject the use of the death sentence for political activists, especially in the present climate in the country"

The Southern African Catholic Bishops' Conference said "As church leaders we cannot condone the taking of a life"

The Azanian People's Organisation said it condemned the use of the death sentence in politically motivated trials

The United Democratic Front called upon Mr P W Botha to exercise his presidential prerogative to save the lives of the six, adding "It is a serious error to regard the conduct of the people in isolation from the political conflict in the country"

The Reverend Frank Chikane, general secretary of the South African Council of Churches, said "We oppose the death penalty in general, but particularly in the case of political trials, because we question the very legitimacy of the apartheid regime"

The National Council of Trade Unions pledged support to obtain clemency. "The black community regards them as freedom fi h ... w e l e

Miss Paula Leydon (right), was at Jan Smuts Airport yesterday to meet Miss Joyce Mokgesi, younger sister of condemned Mr Francis Mokgesi (29). ● Picture by Alf Kumalo.

No causal link of 6 to killing

Star 18/3/88 (252)

state views them as terrorists," it said

The Azanian National Youth Unity and the African Women's Organisation said "We condemn the regime for imposing the death sentences without considering the circumstances surrounding the supposed crime"

Mrs Helen Suzman, PFP spokesman on law and order, said the humanitarian image of South Africa would be "greatly affected"

Internationally, pressure came from a wide range of countries and groups including President Ronald Reagan and Mrs Margaret Thatcher

The Norwegian government expressed its deep concern and added "The execution would result in a further build-up of conflict in South Africa Execution should be stayed on humanitarian grounds"

The Israeli government called for a stay of execution on humanitarian grounds and because of Israel's opposition to capital punishment, adding that clemency would promote national reconciliation while their execution would increase tension

Appeals also came from West Germany's President Richard von Weizsaecker, the British Anti-Apartheid Movement, the United Nations Security Council and the European Community

Church leaders in Zimbabwe have joined in appeals for clemency

New Zealand has sent a rare message to South Africa, asking the government to spare the lives of the Six The message was sent on Wednesday by Foreign Minister Mr Russell Marshall to his South African counterpart, Mr Pik Botha.

The American government urged South Africa to commute the death sentences because the US believed that carrying out the sentences would further weaken efforts to a reconciliation and set back attempts to negotiate over South Africa's political future

Six British MPs called for clemency as "the most effective way of adding weight to representations made by other countries and to further the cause of reconciliation and peaceful change"

The West German anti-apartheid movement has added its voice to the calls for clemency In a statement signed by 170 individuals and backed by two organisations the West German movement said it believed that "their guilt has not been proved beyond reasonable doubt"

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PW unlikely to reprieve 6

By David Braun,
Political Correspondent

CAPE TOWN — President Botha is unlikely to change the decision to hang the Sharpeville Six unless new factors emerge from the court hearing following the granting of a month-long stay of execution in Pretoria yesterday.

A delegation including PFP leader Mr Colin Eglin and Mrs Helen Suzman met Mr Botha for 45 minutes to plead for a last-minute reprieve of the six, who were scheduled to be hanged today for murder.

Mr Botha was attended by Justice Minister Kobie Coetsee and the secretary-general of the office of the State President, Dr Jannie Roux.

Mr Colin Eglin said at the Press conference afterwards that the State President had received him and Mrs Suzman with courtesy and had listened intently to their case. The ensuing discussion had been "extremely serious".

The PFP leaders had outlined why they believed the Sharpeville Six should be reprieved.

PROCEDURE OUTLINED

"The President indicated that normal procedure was that while reprieves were granted in the name of the State President, the decision to reprieve was in fact taken by himself with the assistance of three Cabinet Ministers and, when necessary, legal experts.

"Although the State President would not normally interfere in the decision of the courts, there were cases where the trial judge noted comments which indicated there were extraneous factors which fell outside the ambit of consideration by the courts.

"In the case of the Sharpeville Six he had not been given any notes indicating there were extraneous factors.

"The President pointed out there was an application to the Supreme Court in Pretoria regarding a postponement of the execution which could introduce new extraneous factors both for a possible re-trial or for reviewing the death sentence," Mr Eglin said.

Mrs Suzman said she told the President her understanding from legal opinion was that there was no causal link between the six condemned and the murder they had been convicted of.

"The State President took note of that but said nothing should be done which could give the impression that people could commit mob violence without being punished."

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A contingent of riot police watched Wits students yesterday as they protested on the university steps facing Jan Smuts Avenue against the death sentences imposed on the Sharpeville Six. ● Picture by Herbert Mabuza.

Joy greets decision on Sharpeville Six

There was thunderous applause in the Pretoria Supreme Court yesterday as Mr Acting Justice Human granted a one-month stay of execution for the Sharpeville Six

Outside the building, hundreds cheered as the applicants' attorney, Mr Prakash Diar, sped off to give the news to his clients on death row

Mr Justice Human granted the stay until April 18.

International pleas for clemency were made yesterday by Soviet leader Mr Mikhail Gorbachev, the governments of Canada, Australia, Finland, Norway and Sweden

● Police yesterday took action on the Wits University campus during a protest by about 400 students against the impending hanging of the Sharpeville Six

Two Visnews cameramen, Mr Willie Qubeka and Mr Zet Manona, were removed from the scene and taken to John Vorster Square for questioning

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Rand, city Six protests dispersed

Cape Times 18/3/88

POLICE yesterday broke up two demonstrations — one in Cape Town and the other in Johannesburg — which had demanded clemency for the Sharpeville Six.

In Cape Town, police arrested 29 Black Sash members after they ignored warnings to disperse while demonstrating in front of Parliament.

The women, including Black Sash president Mrs Mary Burton, carried a banner demanding clemency for the six, who later were given a four-week stay of execution from the gallows. They had been scheduled to hang this morning.

The women were taken into custody after failing to heed a six-minute warning to disperse.

In Johannesburg, police dispersed a group of about 500 students demonstrating off-campus against the death penalty for the six condemned prisoners.

Two television journalists were detained and their film taken for viewing to see if they had violated state-of-emergency rules regarding the filming of police action.

Lieutenant-Colonel Frans Malherbe, Witwatersrand police liaison officer, said the men taken from the scene of the protest were Mr Willie Kubeka and Mr Z Manona of Viznews.

The students re-grouped inside the campus boundary and there were no further incidents, police said

● White and black Zimbabweans staged a vigil outside the South African Trade Mission in downtown Harare yesterday , protesting against the scheduled hangings — Sapa and UPI

Sash women in court

By PETER DENNEHY

TWENTY-NINE Black Sash women appeared in the Cape Town Magistrate's Court yesterday in connection with possible charges of attending an illegal gathering near Parliament.

Among the women were the national president of the Black Sash, Mrs Mary Burton; the national vice-president, Mrs Jenny de Tolly; and the Western Cape regional chairperson, Ms Beverley Runciman.

Others who appeared were Mrs Sue van der Merwe, wife of the Progressive Federal Party MP, Mr Tian van der Merwe; Mrs Val Rose-Christie of the PFP's Unrest Monitoring Action Committee; and a nun, Sister Joan Rafferty.

They appeared with Margaret Nash, Lou Shaw, Sue Philcox, Sarah Christie, Mary Shepherd, Helen Marree (nee Zille), Lynne Munnik, Jane Prinsloo, Annemarie Hendrickz, Cindy Tyrell, Brenda McKay, Anne Schuster, Margaret Matthews, Desireé Burman, Ruth Copelands, Judy Woodward, Karen Chubb, Pam Allen, Margie Probyn, Alison Saayman, Anne Greenwall, Jill Gribble, and Denise Smith.

The state requested a postponement of the matter to April 22 for further investigation All the women were released without bail, and warned to appear on that date.

The prosecutor said the charge which would be investigated would be one of allegedly attending an illegal gathering as defined in the Internal Security Act, Act 52 of 1973.

They were arrested shortly before 1.30pm in Government Avenue yesterday as they stood in silent protest behind a banner which read "Clemency for the Sharpeville Six".

Vendor, waitress, footballer, student . . .

SHARPEVILLE — They include a vendor, a footballer and a street waitress. They have become known as the Sharpeville Six.

The six who have been cast as many South African heroes — the five men and a woman on death row in Pretoria Prison have no record of involvement before their arrest on charges of murder.

In the mob killing of Mr Jacob Dlamini on March 3, 1984, the six had not.

The following are brief portraits of the six:

Theresa Ramashamola, 26, was implicated by a single witness who testified at the trial that she shouted, "let us kill him" when the mob surrounded Mr Dlamini.

Until her arrest, she shared a one-bedroomed home with her 50-year-old mother, commuting to the nearby Vereeniging, where she worked at a roadhouse as a waitress.

Ramashamola is a practising Catholic. Her neighbourhood priest described her as an unsophisticated woman with no understanding of politics. Unmarried.

Francis Mokgesi, 30, was a window-dresser known for his prowess as a player with the Vaal Professionals soccer club.

A prosecution witness testified he saw Mokgesi stone Mr Dlamini's house, make petrol-bombs and order the burning of the councillor's house. Married with one daughter.

Reginald Sefatsa, 32, used to earn a living selling vegetables and fruit from the back of a pick up truck.

Mr Dlamini's wife identified him at the trial as the man who hit her husband with a stone and the ring leader in the attack. Sefatsa claimed to be elsewhere in the township at the time. Married. His daughter was born while he was awaiting trial.

Reid Mokoena, 24, was unemployed at the time of his arrest. Police said he made a statement admitting that he threw a stone at Mr Dlamini as the councillor lay face down on the ground.

He is engaged to be married to the mother of his daughter.

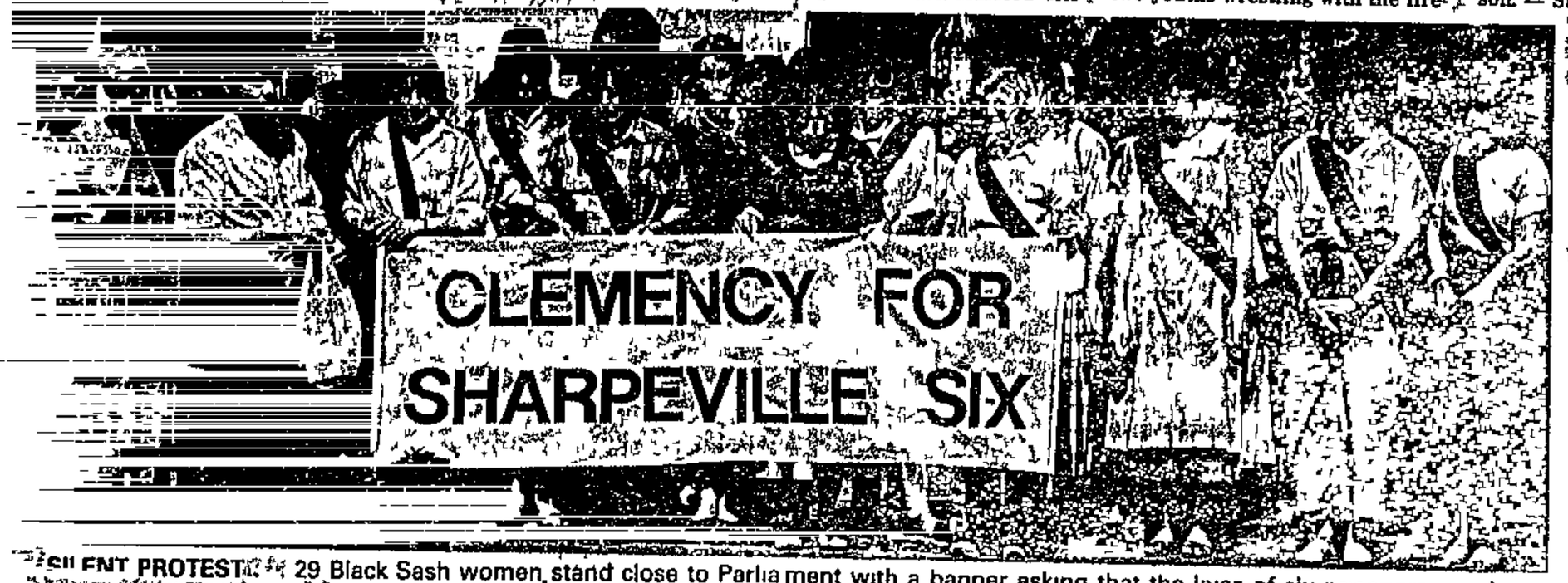
Oupa Diniso, 32, worked as an inspector at a steel factory. Police found the murdered councillor's firearm at his house.

A keen golfer, he told the court that on his way from golf, he met two youths wrestling with the firearm. He took it to his home and put it in his tool box.

Duniso said he did not want to report the matter to police for fear the community would label him an informer. Married, the father of two girls.

Duma Khumalo, 28, was in his final year of study for a teacher's diploma. A prosecution witness said Khumalo stoned Mr Dlamini's house.

Khumalo testified he was not at the scene and was helping a friend injured by a police bullet. An unmarried father of a six year-old son. — Sapa Reuter



SILENT PROTEST: 29 Black Sash women stand close to Parliament with a banner asking that the lives of six prisoners — who were sentenced to death for a politically motivated murder — should be spared. Picture: ALAN TAYLOR

From page 1

The Sharpeville Six were convicted of being part of a mob of 100 that stone, hacked and burned to death Mr Dlamini. Although not directly identified, they were convicted on grounds of "common purpose", because they were in the mob of residents angered by rent increases.

The judge said if a certain statement by Mr Monete had been brought to his attention during the trial he would have allowed Mr Monete to be cross examined.

He said there was prima facie evidence that Mr Monete had given perjured evidence.

Mr J H Hugo, counsel for the respondents, opposed the application for a stay of execution.

Archbishop Desmond Tutu said there was a "tremendous sense of relief and I give praise to God. We are very grateful to all those who have tried to influence the decision".

Relief at the decision was expressed by President Richard von Weizsaecker of West Germany, the West German Foreign Minister, Mr Hans Dietrich Genscher, Archbishop Trevor Huddleston, leader of the Anti Apartheid Movement in London and Miss Joyce Mokgesi, a sister of one of the six. The Organization of African Unity in Addis Ababa expressed gratitude to all who had fought for the lives of the six.

In Lusaka, the African National Congress said it had cancelled a memorial service after hearing of the stay of execution.

Yesterday morning, Progressive Federal Party leader Mr Colin Eglin and the PFP MP for Houghton, Mrs Helen Suzman, met President P W Botha for 45 minutes in a bid to persuade him to commute the sentences.

A group of seven women from the United Womens' Congress presented a petitition to the British Ambassador yesterday morning, pointing out that one of the six, Theresa Ramashando, would be the first woman hanged for her political beliefs. — Sapa

Political pressure will fail

Political Staff

THE Minister of Information Dr Stoffel van der Merwe yesterday made it clear that the government would not bow to "political pressure" as far as the Sharpeville six were concerned.

However, this did not mean that calls for a reprieve would disqualify individuals on death row from possibly having their sentences commuted, Dr Van der Merwe said at a Bureau of Information press conference.

He was addressing a press briefing before the decision by the Pretoria Supreme Court to grant the six a stay of execution.

Dr Van der Merwe said while the pressure from abroad on the Sharpeville Six was "basically politically motivated", the government's attitude was that the case should be treated in an apolitical way.

Hope of new trial for Six

PRETORIA — The Sharpeville Six were given hope of a new trial yesterday only hours before they were due to be hanged in Pretoria Central prison on when Mr Acting Justice Human granted them a temporary reprieve in the Supreme Court here.

Friends and family of the Six clapped their hands in the public gallery when they heard the execution would be postponed for four weeks to April 18. They then filed outside where a crowd shouted "Amandla Awethu".

The successful 11th-hour application was brought on the grounds that a state witness's — Mr Joseph Monete's — evidence may have been perjured.

The postponement will enable the condemned six's attorneys to lodge an application for the case to be reopened.

Western countries, including the United States and Britain, had joined African states in urging South Africa to show mercy in a case that involved complex legal issues.

Yesterday morning, Nonsonp c man, the original trial judge, h ui from attorneys Mr Denis Kuny and Mr Prakash Diar that Mr Monete had been assaulted and coaxed by police into giving false evidence, and that three different statements he had contained three different versions.

The judge also criticized the foreign media for implying that the six were merely part of the crowd and did not take actual part in the killing.

"Nonsense", he told the court. "We have proof that they have taken part in the violence; were active participants; and have associated themselves with the people who committed the crime".

The six were to die today for the murder of Lekoa deputy mayor Mr Kuzwayo Dhlamini on September 3, 1984.

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The six who are held on Death Row

SHARPEVILLE — The "Sharpeville Six" include a waitress, a footballer and a street vendor — they have little in common.

They have no record of political involvement and before their arrest, the six had not met.

They are.

● THERESA RAMASHAMOLA, 26, the only woman. She was implicated by a single witness who testified that she shouted "let us kill him", when the mob surrounded Councillor Jacob Dlamini.

Until her arrest, she worked at a Vereeniging roadhouse as a waitress. She is single.

● FRANCIS MOKGESI, 30, was a window dresser known in the back alleys of Sharpeville for his prowess as a soccer player.

He told the court he had sprained his ankle during a match and could not walk on September 3, 1984.

A prosecution witness testified, however, that he saw Mokgesi stone Dlamini's house, make petrol-bombs and order the burning of the councillor's house He is married with one daughter.

● REGINALD SEFATSA, 32, used to earn a living selling vegetables and fruit from the back of a pick-up truck.

Dlamini's wife identified him at the trial as the man who hit her husband with a stone and the ring leader in the attack. Sefatsa claimed to be elsewhere in the township at the time of the attack. He is married with a daughter, who was born while he was awaiting trial.

● REID MOKOENA, 24, was unemployed at the time of his arrest. Police said he made a statement admitting that he threw a stone at Dlamini.

During the trial, Mokoena alleged police used electric shock torture to extract the statement and denied he took part in the attack. He is engaged to the mother of his daughter.

● OUPA DINISO, 32, worked as an inspector at a steel factory. Police found the murdered councillor's firearm at his house.

He told the court that on his way from golf, he met two youths wrestling with the firearm. He took it to his home. He is married, with two daughters.

● DUMA KHUMALO, 28, was in his final year of study for a teacher's diploma. A prosecution witness, known as Mr X, alleged Khumalo stoned Dlamini's house.

Khumalo testified he was not at the scene. He is an unmarried father of a six-year-old son. — Sapa-Reuter.

Sowetan

Sowetan

Human rights group hits at Botha

25/3/88

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THE Lawyers for Human Rights have criticised the State President, Mr P W Botha, for his intervention in a murder trial in Windhoek and yet refusing to do the same in the "Sharpeville Six" case.

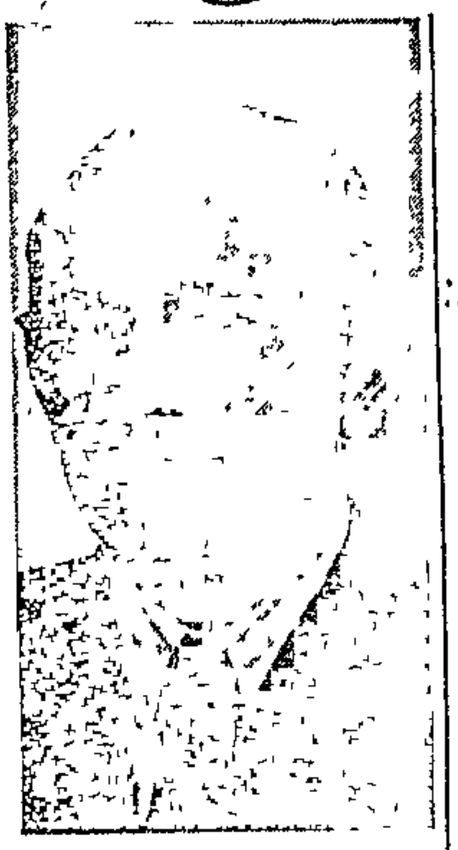
The LHR — watchdogs for human rights — described as "devastating" Mr Botha's issuing of a certificate to stop the prosecution of six soldiers who allegedly murdered a Swapo leader at a rally in Windhoek.

The lawyers said in a statement: "Seen against his decision to grant clemency to a Mamelodi policeman who had been found guilty of murder and sentenced to death, and his refusal to intervene in the "Sharpeville Six" case, the State President has added to his office the portfolios of attorney-general, prosecutor, judge and executor.

"We as lawyers condemn his involvement in judicial matters which is unscientific and politically motivated. We decry his outright contempt for the principle of equality before the law, which is a fundamental human right."

Mr Louis Pienaar

Mr P W Botha



Mr Dave Dalling

Botha's decision to halt trial defended

WINDHOEK. — The South African State President had not interfered with the independence of the Supreme Court when he ordered the discontinuation of the trial of six members of the military, the Administrator-General of Namibia, Mr Louis Pienaar, said yesterday

The trial in which the six men were to face charges of murdering a veteran Swapo member, Mr Immanuel Shifidi, was to have started yesterday.

President Botha halted the proceedings in terms of a section of the Defence Act which exempts members of the security forces from court action if they acted in good faith.

Mr Pienaar said interested parties were "free to test the validity of the State President's decision in a court of law"

● The Windhoek Bar Council said it had learnt "with shock and disbelief" that the trial had been prohibited.

'Abused'

It deplored the fact that "an incisive measure such as the issuing of a Section 103 certificate, which provides for a totally different situation, has been abused to prohibit judicial criminal procedure"

● The Labour Party said it had noted the decision with "shock and abhorrence" and asked Mr Botha to reconsider as his action could "give rise to public violence, bloodshed and chaos"

● The intervention by the State President would bring South Africa's system of justice into international disrepute and would alienate thousands of citizens in SWA/Namibia, the PFP spokesman on Justice, Mr Dave Dalling, said

The course of justice had been interfered with and people who were possibly guilty of murder would go unpunished The action had effectively placed the SADF above the law — Sapa

Trolley dirt: Consumer group's cleaning advice

Staff Reporter

A CONSUMER organization has recommended that supermarkets clean their trolleys at least once a month using a system scientifically tested by the organization.

Mr Karel Gewers, managing director of the Consumer Federation, said that after a survey on the Witwatersrand he had found that out of 30 supermarkets "only about 12 were cleaning their trolleys regularly".

He said he found cases where trolleys had not been cleaned for up to eight years. Trolleys were sometimes used to transport refuse and store meat

A senior spokesman for a supermarket chain said trolleys in his stores were cleaned at least once a month by steam-cleaning machines and anti-bacterial agents.

Last moments of freedom — Adiel Samaai, 20, with his six-week-old child Qaasim and wife Nadia.

Sowetan 24-30/3/88

Adiel loses appeal — prepares for jail

By AYESHA ISMAIL

A PARKWOOD father, aged 20, is to be separated from his wife and six-week-old baby to begin a 12-month jail sentence for public violence following the failure of his appeal.

Moegamat Adiel Samaai, sentenced in November 1985, said this week "I have accepted that I have to go to jail I'm prepared

"We are waiting for the written judgment from Bloemfontein appeal court before I know when to report

"I feel much better now that everything is over The case has been going on for three years "

A Bachelor of Commerce student at the University of Cape Town until last year, he had to abandon his studies

"I'm going to miss my family — especially my son Qaasim

"My parents will look after my wife Nadia and child while I'm in prison "

Nadia said they had tried everything to save her husband from jail and his mother, Mrs Gaya Samaai, said she was sad

Lawyers said they intended petitioning the State President for relief

The State alleged Samaai was part of 30 to 40 people who stoned a police vehicle in Parkwood in September 1985

He set two tyres alight, was shot in the hand and buttocks, and arrested

Samaai quit playing for Devonshire Rovers due to injuries from the shooting

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Hanging goes unnoticed

A DESPERATE bid is to be made in the Pretoria Supreme Court to save an Oudtshoorn man from the gallows this week.

Michael Lucas of Bhongolethu township, one of about 40 people on death row at Pretoria Central Prison for politically-related crimes, is due to be hanged on Friday

He was convicted in the Supreme Court, Cape Town last year for the murder of a bus inspector, William Blaauw

Meanwhile, with world attention on the "Sharpeville Six", 25-year-old Tsepo Letsoaro of Port Elizabeth went to the gallows unnoticed last Friday for the "necklace" death of a woman in the Eastern Cape in October 1985

Lucas's lawyers have confirmed that an application for a stay of execution would be heard today Alternatively, they are applying for an interdict restraining the Sheriff of Transvaal, the commanding officer of the prison and the Chief Justice from having Lucas executed on Friday

Lucas, the third of seven children, passed standard eight at Fezikeli Junior Secondary in Bhongolethu He was in high school when he was arrested and charged with two others for murder and malicious damage to property

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PW halts trial of soldiers in SWA

Cape Times 23/3/88

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WINDHOEK. — The State President has intervened to stop the trial, due to have begun yesterday, of six members of the SA Defence Force and the SWA Territory Force in connection with the death of veteran Swapo member and former Robben Island prisoner Immanuel Shifidi.

A Windhoek Supreme Court official said a certificate to this effect in terms of Section 103 (4) of the Defence Act was signed by the Administrator-General of Namibia, Mr Louis Pienaar, at the instructions of the State President.

The section exempts members of the security forces from criminal or civilian court action if they act in good faith in the combat of terrorism in an operational area.

The six who were to appear yesterday are Colonel J H Vorster of the SWATF headquarters in Windhoek; Col W H Welgemoed, commanding officer of Ovambo's 101 Battalion; Commandant A J Botes of SWATF headquarters; Lieutenant N J Prinsloo of 101 Battalion; Corporal E C Kashimbi of 101 Battalion; and Rifleman S Festus of 101 Battalion.

Mr Shifidi died from stab wounds when fighting broke out at a Swapo political rally in Katutura township outside Windhoek on November 30, 1986

In earlier court appearances, the prosecution alleged that the six accused had deliberately disturbed the peace through the violent disruption of the meeting, at which people were attacked with spears, sticks, knives and bows and arrows.

Troops with spears, arrows

Alternatively, the state alleged that the six had instructed members of Ovambo's 101 Battalion to injure people and to disrupt the political meeting.

The state claimed that Col Vorster had requested Col Welgemoed to detach about 50 members of 101 Battalion for that Swapo meeting.

Col Welgemoed allegedly instructed Lt Prinsloo to assemble 50 troops to be armed with spears, sticks, knives and bows and arrows.

A group of 54 soldiers was brought from Ondangua in northern Namibia to Okahandja on November 29 where they were told what to do at the Swapo meeting the following day.

Cpl Kashimbi allegedly drove a vehicle with the weapons for the troops to the Swapo meeting.

The 54 soldiers in civilian dress allegedly infiltrated the meeting which was disrupted by fighting soon after it had started

People fled and Mr Shifidi was found dead at the scene, while scores of people were injured. — Sapa

(252) B/day 23/3/88

PFP slams Botha over SADF case

ALAN FINE

THE PFP and a legal academic have drawn parallels between the Sharpeville Six case and the decision of President P W Botha to stop the trial of six SADF and SWATF members facing charges in connection with the death of Swapo member Immanuel Shifidi

The trial was to have started yesterday. However, Sapa reports, President Botha instructed Namibia Administrator-General Louis Pienaar to issue a certificate in terms of the Defence Act exempting the six from prosecution for acting in good faith in the combat of terrorism in the operational area.

Shifidi died from stab wounds when fighting broke out at a Swapo political rally at Katutura outside Windhoek on November 30, 1986.

PFP justice spokesman Helen Suzman said yesterday that after Botha's refusal to commute the death sentences of the Sharpeville Six, she was astonished he did not allow the ordinary course of justice to be followed in this case

Director of UCT's Institute of Criminology Professor Dirk van Zyl Smit said the worst type of executive interference in the judicial system was that which occurred before a matter had been settled by the court

This did not apply to the Sharpeville Six, he said.

Homelands need more SA funds

DIANNA GAMES

AT LEAST half of the total government revenue of two of the four "independent homelands" in the 1987/88 financial year came either directly or indirectly from South African central government.

The bulk of SA's assistance was made available in direct grants paid by the Department of Foreign Affairs, which set aside R1,874bn for the homelands for this financial year

Figures supplied by the department indicate the homelands' financing is becoming more dependent rather than less so

Of the four — Transkei, Bophuthatswana, Venda and Ciskei — only Bophuthatswana and Transkei raised more than half of their revenue from their own sources

Venda remains most reliant on SA monetary intervention.

Of the homeland's total revenue and loans of R492m for the year, only R146m was raised from own sources, excluding money resulting from agreements of the common monetary area, customs union transfer and tax compensation

The tax compensation payment is an agreement between the TBVC states and SA in terms of which SA compensates for tax paid by their citizens in SA

The remaining R346m was raised through: direct grants worth R284m from SA — twice what it received in the previous year — a guaranteed overdraft of R62m, decentralisation incentives, grants, loans and job creation programmes

Total revenue

In the 1986/7 financial year, Venda received R140m in grants from SA. It was granted an additional R101m in aid and loans

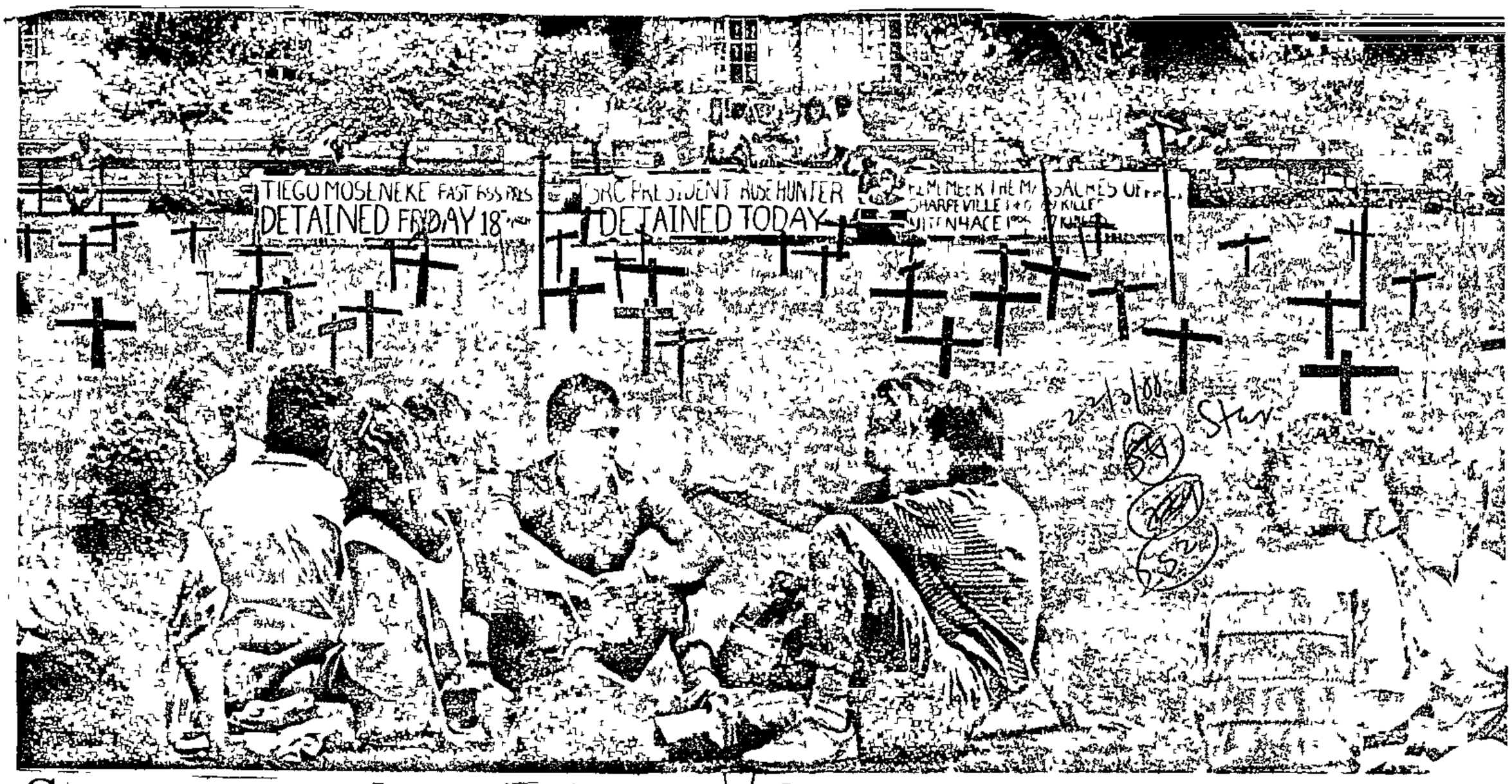
Transkei's total revenue for the year, including loans and overdraft facilities, was R1,48bn of which R650m was raised from own sources, also excluding common monetary area money, customs union transfer and tax compensation

The rest comprises grants from SA totalling R450m and guaranteed overdraft facilities of R190m

Ciskei's total revenue for this year, excluding loans and overdrafts, amounts to R859m of which only R321m was been raised from own sources and a further R163m through common monetary area money, customs union transfer and tax compensation.

The outstanding amount of R558m is made up of budgetary assistance from SA (R250m), an overdraft facility (R214m) and other loans raised (R94m)

Of the four homelands, Bophuthatswana appears to be the most financially independent



Stayaways to observe 'Sharpeville Day' vary around South Africa

Staff Reporters

Work and school stayaways were staged yesterday to commemorate the 28th anniversary of the Sharpeville shootings

The stayaways were also in response to a call made by 12 affiliates of the recently-restricted United Democratic Front (UDF) for Sharpeville Day to be observed

Violence broke out at several places

The extent of the stayaway varied around the country, according to spokesmen for transport services, commerce and industry

According to employers contacted by The Star, parts of the Reef and the Eastern Cape were particularly affected

Police estimated that about 40 percent of workers had stayed away in Johannesburg, Randburg and Sandton

In Durban and Alberton buses were stoned and petrol-bombed, and at Marianhill in Natal, a train was slightly damaged when a mob stoned it at the railway station No injuries were reported

BUSES INACTIVE

Putco buses did not run in Soweto yesterday because of a poor staff turnout and an almost total lack of demand, a spokesman said

A spokesman for the Department of Education and Training (DET) said stayaways were reported at 9 percent or 694 schools under its control "Eighty-six percent of these are primary schools which indicates that parents preferred to keep their children at home for fear of incidents"

Police fired tearsmoke from a helicopter at group of students at the University of Durban-Westville The universities of Cape Town and the Western Cape and the Peninsula Technikon were closed

Thousands of black pupils in Durban townships stayed away from schools

A spokesman for the Steel and Engineering Industries Federation of SA said no fixed pattern had emerged from a check he made with 29 companies country-wide

NORMAL MONDAY

Of these, 16 had indicated they had more than 70 percent attendance — which was no worse than normal for a Monday morning — while attendance at the other plants was either around or well below 40 percent.

Stayaways were reported in Germiston, Pretoria, Rosslyn and Isando, Seifsa said

A spokesman for Anglo American said the stayaway had not affected its gold mines

Supermarket chains reported stayaways of up to 90 percent

At least two large industries in East London experienced total worker stayaways

● The Leader of the Labour Party, Mr Allan Hendrickse, yesterday moved a motion expressing the House of Representatives' solidarity with "millions of South Africans" commemorating Sharpeville

● The Star's London Bureau reports that a wide range of organisations and individuals joined a march to Downing Street to protest against the banning orders imposed on South African anti-apartheid movements and to mark the 28th anniversary of Sharpeville

Sixty nine crosses on Wits University Campus yesterday marked the 28th anniversary of the deaths of 69 people who were killed in the Sharpeville Massacre In the background posters display the names of detained Wits Student Representative Council president, Miss Rosemary Hunter, and former Black Students' Society president, Mr Tiego Moseneke

Students demonstrate after detentions

By Zubaida Vendeiro and Duncan Guy

Demonstrations to protest against the detention of two student leaders and to commemorate the Sharpeville killings were held at the University of Witwatersrand yesterday

Miss Rosemary Hunter, president of the Students' Representative Council (SRC), was picked up by security police at her parents' Forest Town, Johannesburg, home early yesterday morning, and Mr Tiego Moseneke, a former president of the Black Students' Society (BSS), was detained on Friday morning

Their detention, in terms of the emergency regulations, was confirmed by family members

Pickets were held on campus at lunchtime and about 100 students lined Jan Smuts Avenue, Jorissen Street and Empire Road for 20 minutes from 5 pm There was a low-key police presence

The vice chancellor of Wits University, Professor Robert Charlton, said yesterday, "The university regards this with the utmost concern and have instructed our attorneys to take immediate action" he said

Sharpeville family speaks out on life on the sidelines

C/Times 15/3/92

AMID the rejoicing over the stay of execution granted "The Six", Sharpeville's forgotten family spoke for the first time about their life on the sidelines.

The Dlaminis, kin to the councillor who met a fiery death at the hands of an enraged mob nearly four years ago, are not only a bitter family but also a picture of uneasiness.

By MANDLA TYALA

They still live in the township in which Mr Jacob Kuzwayo Dlamini was attacked and, nursing a fragile peace, strenuously avoid commenting on the international campaign for clemency for the six lest they say something which might ignite tempers again.

Mr Dlamini's sister, Miss Modiehi Dlamini said: "We've been through a lot of trauma and we don't want trouble again."

Miss Dlamini spoke of the family's life in the shadows while the fatal attack on her brother snowballed into a major international event.

She said: "Of course we are bitter. How would you feel if your eye was gouged out? Who sympathises with us? Who cares about us?"

Escape

Even the media did not escape her resentment.

Miss Dlamini said: "There have been reports in the newspapers every day about the case. For the past three years no-one has set foot here to speak to us. Why now?"

Mr Shadrack Dlamini, her brother, said he had learnt to put the whole episode behind him.

"Almost every day when he picked up a newspaper or turned on the TV, the Sharpeville case featured prominently.

He said: "But I no longer feel a stab in my heart. That time is over. We live a normal life now and we would like it to stay that way. Worrying all over again will not help. It won't bring Jacob back."

Miss Dlamini said since the incident her sister-in-law, Alice, 42, had lost her sanity and was now being looked after by relatives.

She said: "Alice attended the trial on a few occasions and she has not been right since. This really affected her."

The family is also sharing the burden of raising Mr Dlamini's three children — "virtual orphans" — whose ages range between eight and 17.

Mr Dlamini said: "They are well and they go to school like everyone else. They do not seem to be affected by all this."

Residents said there had been palpable relief in the township after the news of the reprieve.

A resident said: "Earlier in the week we could feel tension building up and there was a strong feeling that something was about to happen."

Had the execution been carried out this weekend, it would have coincided with the anniversary of the 1960 Sharpeville shootings.

20/3/88

Diplomatic storm over Sharpeville Six

AT LEAST one European country is considering the symbolic withdrawal of its ambassador if the "Sharpeville Six" are hanged. Diplomats also expect other countries to follow suit. Dr Jean Quinche, ambassador of neutral nation Switzerland, called on President Botha at his Tuynhuys office to appeal for a stay of execution and a grant of clemency.

A Swiss Embassy spokesman said Dr Quinche's visit was a continuation of démarches made in Berne and Pretoria in December.

Another ambassador, Canada's Mr Ronald Maclean, returned to South Africa to deliver his country's appeal

Mr Maclean had been recalled to Ottawa in protest against earlier Government clampdowns on extra-parliamentary opposition groups

An unusually high level of protests and appeals flooded into Government offices in Cape Town from countries all over the world

Diplomats milled round Parliament on Thursday as tensions built up over the executions, scheduled for Friday

Most envoys conceded the complexities of the Sharpeville case and the Government's assertion that the six had been found guilty of murder according to recognised legal principles

By LESTER VENTER
Political Correspondent

Commute

But, they pointed out, public opinion in their home countries had escalated to the point where their governments — responsive to pressure — were compelled to act

The thrust of the foreign protest was not against the conviction of the six, but aimed at urging the South African Government to commute the death sentences

The leader of the Progressive Federal Party, Mr Colin Eglin, and human rights veteran Mrs Helen Suzman also appealed to Mr Botha on Thursday.

Mrs Suzman said the conviction of the six appeared to be "a broadening of the interpretation of common purpose"

Mr Eglin said the case had demonstrated no "direct causal link" between the actions of the six and the death of Lekoa town councillor Mr K J Dlamini

Earlier in the day, newly-designated Minister of Information Dr Stoffel van der Merwe explained the Government's position to diplomats and journalists

Dr van der Merwe said the impression that six people who were merely part of a crowd acting in concert had been punished had been "wilfully created"

Each had played a leading role

However, he said, the Government's view was that the six had been convicted and sentenced through an independent judicial process The Government could not, and would not, interfere in the court's findings

Appeals

Several heads of state had made appeals They included Britain, the United States, Australia, France and Russia

Appeals also came from West Germany, New Zealand, Israel, Iran, Japan, Finland, Norway, Sweden, Greece, Botswana, Italy, Luxembourg, Belgium, the Commonwealth and the Organisation of African Unity

Argus 18/3/88 (252)

TODAY:

Sharpeville Six thrilled by 11th hour reprieve

Argus Correspondent Johannesburg

THE Sharpeville Six were overjoyed to hear they would not be hanged today at dawn and the only woman condemned burst into tears and hugged a prison warden when she realised she had been reprieved

Their attorney, Mr Prakash Diar, said he was the first person to tell the six they would not die and "there are no words to describe how they felt"

"Theresa Ramashamola, 26, burst into tears and grabbed the prison warden before touching my hand through the glass window to say thank you"

Mr Diar said "She thanked me for saving her life and when I replied it was God's hand she told me perhaps the Lord had helped her through me"

Speaking shortly after breaking the news to the six reprieved prisoners, he said the others were all thrilled by the news though they hadn't cried.

"I did explain to them that this was not the end of the road, though I believe they have a chance"

Mr Diar said he had not believed the six would be reprieved before the case, though he had been determined not to leave any stone unturned

"We needed to explore every legal avenue and couldn't stand back and forget the case

"I believed we had a strong case on appeal and a strong case when we pleaded to the President for clemency."

He believed Mr Acting Justice Human had reached his decision on his own and that as far as the judge was concerned he had not been influenced by international pressure.

He added that the papers in the urgent application had not differed substantially from the appeal sent to President Botha He said the President had known one of the witnesses had committed perjury.

He said counsel had until April 18 to file papers in an application to reopen the case so that certain witnesses could be recalled

He contended the case should be heard before the same judge

He said that if permission was not granted to reopen the case the six might still hang

YESTERDAY:

Applause greets stay for 'Six'

Argus Correspondent Pretoria

THUNDEROUS applause shook the Pretoria Supreme Court yesterday as Mr Acting Justice Human granted one month's stay of execution for the Sharpeville Six

Outside the courthouse a crowd of hundreds cheered and shouted "Amandla!" as the applicants' attorney, Mr Prakash Diar, sped off to give the good news to his clients on death row at Pretoria's maximum security prison

Mr Acting Justice Human granted the stay until April 18, exactly a month from today, the day set down for the execution of the five men and a woman — minutes after counsel for the respondents presented their case

"There is sufficient material (available) at this stage to grant a stay of execution," said Mr Acting Justice Human.

The application for a stay of execution was based largely on recently freed statements by a State witness, Mr Joseph Manete, which became available as new evidence after Mr Manete waived his right to attorney-client privilege this week

The statements conflict with one another and in one Mr Manete says "the statement I made to police .. was not entirely true".

In another he says he was threatened and forced to make a statement implicating two of the convicted men.

He said: "I saw (two of the convicted men, Duma Khumalo and Francis Mokgesi) throw stones at (the home of the victim, Mr Jacob Dlamini) but I did not see them actually pouring petrol on the house or stoning Dlamini himself"

Counsel for the Ministers of Law and Order and Justice, the officer commanding the maximum security prison, and the sheriff and Attorney-General of the Transvaal had argued that even if counsel for the applicants managed to recall Mr Manete and "destroy his evidence", the guilt of Khumalo and Mokgesi was established by another "very strong" State witness.

The six convicted of complicity in Mr Dlamini's murder in 1985, Majalefe Sefatsa, Reid Mokoena, Oupa Diniso, Theresa Ramashamola, Khumalo and Mokgesi, will remain on death row for the duration, according to Mr Diar.

Following the granting of the stay of execution, Mr Acting Justice Human admonished newspapers for the "suggestion that they were convicted merely because they were standing in a crowd and did nothing"

18-24/3/88 (25) W/Mail

Twenty-eight years later Sharpeville bleeds again

On March 21 1960, 69 Sharpeville residents were shot dead by police. On March 21 1985, 21 mourners were shot dead by police This week the township waited to hear the fate of the 'Sharpeville Six' on death row MONO BADELA reports

SHARPEVILLE was sombre this week, with an air of heavy gloom pervading the dusty streets of the tiny Vaal Triangle township The people were angry, bitterness written on their faces

The reason for the sorrow and anger was the announcement that the "Sharpeville Six" will hang this morning, in fulfillment of the instructions of Justice WJ Human, judge of the Supreme Court, Transvaal Provincial Division, issued in December 1985

Sharpeville, no stranger to sorrow, will bleed again

On March 21 1960 — 28 years ago — 69 residents of Sharpeville were shot dead by police, catapulting South Africa and the issue of apartheid on to the front pages of newspapers all over the world The victims had been staging a protest against pass laws

And since 1985, March 21 has assumed a dual significance for millions of blacks in South Africa it has become a double date with sorrow

For it is also the anniversary of the shooting by police of at least 21 mourners marching to the funeral of unrest victims from KwaNobuhle Langa residents claim 43 died, and scores were injured

This week, as I drove Regina Sefatsa (wife of one of the six condemned) into Sharpeville, I was greeted by placards outside her husband's home They simply read "God Save My Son"

I also saw the burnt-out ruins of the home of Jacob Dlamini, a "deputy mayor" of Sharpeville it is for his death that the six will hang, although Human acknowledged that not all of them were directly involved in his killing

The remains of the home are a monument to the September 1984 uprising, and Dlamini's family has never returned to Sharpeville

In the township, people discussed the week's shocking news "We still have hope that their lives would be spared," they said According to Sefatsa's wife, "Mojelefa has never harmed a fly "

A veteran of the 1960 protest march (who asked that his name not be mentioned for fear of victimisation) summed up the atmosphere "the mood of the people is bitter The hearts of the people of Sharpeville are bleeding It is even worse than in 1960 "

He said the news of the impending hanging of the six was greeted with shock and revulsion

"We have resisted paying rent since September 1984, and I am afraid this cowardly action is going to harden our attitudes more "

The 66-year-old man took part in the march that was repelled by a hail of bullets from police sten guns He was shot in the left leg and was one of the hundreds of injured He spent two months at Baragwanath Hospital in Soweto and a further 13 months as an awaiting-trial prisoner charged with incitement and public violence He returned home on June 16, 1961

He said that although most of the policemen involved in the 1960 shootings were now on pension, "there is more repression in our area than ever before Not only do we have police harassing people, today we have the soldiers making themselves part of this village

"In 1960 there were no municipal police or 'greenflies', nor were there *kitskonstabels* "

He said army and police patrols have been stepped up on the streets of Sharpeville since Tuesday morning, when the fate of the six was announced

Another veteran, 55 year-old Adam Malefane, remembers the 1960 demonstration — nine sten gun bullets were pumped into his right leg He was in hospital for more than three years, and still has three bullets lodged in his right knee

Despite his hardship, Malefane does not regret joining the historic pass law protest "The doom book (reference book) was like a a rough chain round my neck," he says now

On June 9 last year President PW Botha paid an official visit to Sharpeville and was given the "freedom of the township" by Mayor James Mahlatsi

Botha entered one match-box home and the children of Sharpeville gave him a resounding welcome, forming a guard of honour, singing and cheering By contrast, said an elderly resident this week "the same school kids are cursing the day PW Botha was born "

When news of the impending hangings spread on Tuesday morning, Lekoa Shawdu High School children took to the streets, saying they "could not believe it was the same Botha they had welcomed last June"

Residents in the area say they still suffer from high rentals, poor homes, evictions and a high rate of unemployment "Evictions take place during the day when tenants are at work," a committee representing Vaal residents told *Weekly Mail*

Compounding these problems for the people of Sharpeville is the removal of their major organisational voice — the Vaal Civic Association, one of the 18 anti-apartheid organisations banned by Minister of Law and Order Adriaan Vlok four weeks ago

Sharpeville to be mourned — despite the clampdown

18-24/3/88 W/Mail (28)

Weekly Mail Reporters

MONDAY is Sharpeville day, and all over the country commemoration services, rallies and other actions are being planned to mark one of South Africa's bloodiest anniversaries .

Preparations are going ahead despite the strong likelihood that the state will take steps to prevent protest meetings from taking place

The shootings in Sharpeville on March 21 1960, and those in Langa township on the same day in 1985, will be mourned by a variety of organisations ranging from "Charterist" to black consciousness groups

Details of some of the actions cannot be reported in terms of Emergency regulations that restrict reporting on boycotts.

Fourteen organisations affiliated to the now-restricted United Democratic Front have directed an appeal to "all the people of South Africa to commemorate the Sharpeville and Uitenhage massacres and to protest against extreme repression"

The statement, from women's organisations, the Transvaal Indian Congress, civic associations and youth groups, forms part of a broader call for protest against planned executions

The Azanian Co-ordinating Committee (Azacco), a crisis committee formed after the effective banning of the Azanian People's Organisation and other groups, has announced a series of commemorative meetings to take place over the weekend and on Monday

According to Azacco's co-ordinator Lusiba Ntloko, the meetings will go ahead despite the detention of three key Azacco figures this week, and probable restrictions

Meetings will be addressed by leaders of various political organisations, community groups and trade unions, and are scheduled to take place at a minimum of 23 venues

Azacco's call was endorsed by 18 groups, including the National Council of Trade Unions and the National Forum

The Azanian National Youth Unity (Azanyu), which was not affected by the recent spate of restrictions on activist organisations, has urged people to participate in a "period of resistance" from March 18 to 21

Azanyu has called for the wearing of black clothing, and has asked ministers of religion to ring church bells between 6 and 6 30am on Friday From Saturday to Monday, "peaceful resistance" will take place, including the cleaning of graves and laying of wreaths in Sharpeville

Residents of Uitenhage are also planning a major commemoration of the tragedy which befell their community three years ago The Uitenhage Residents Civic Organisation has announced that Monday will be a day of mourning, including a rally at KwaNobuhle's Jabavu Stadium

Business and shebeen owners have been called upon to close their premises from 10am to 5pm as a "token of solidarity with the bereaved community" In addition, people have been asked to refrain from playing sport, and to fast from 6am to 6pm

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THE WEEKLY MAIL

VOLUME 4, NUMBER 10. FRIDAY MARCH 18 to THURSDAY MARCH 24, 1988

THE PAPER FOR A CHANGING SOUTH AFRICA

FRANK CHIKANE'S CALL TO WHITES: GO FOR THE GAP

The Black Sash national conference reflects on where to go after the government crackdown on 18 organisations

CENTRE PAGES

The Sharpeville Six

Adelino Diniso weeps for her son, Oupa, as his execution approaches ... but hours later family members hoisted aloft attorney Prakash Diar after a reprieve was announced

Pictures: WALTER DHLADHLA, AFP and ERIC MILLER, Afrapix.

the pain ... the joy

W/Mail 18-24/3/88 (252)

By VUSI GUNENE and JO-ANN BEKKER

THE "Sharpeville Six" received a last-minute temporary reprieve from the gallows yesterday afternoon when the Pretoria Supreme Court postponed their execution for a month.

And the mood of despondency which had burdened families for the entire week lifted as jubilant supporters carried lawyer Prakash Diar shoulder-high in victory About 500 people danced outside the court on Church Square, bringing traffic to a standstill.

The court ruling followed unprecedented international pressure on President PW Botha to spare the six — including direct appeals from British Prime Minister Margaret Thatcher and United States President Ronald Reagan.

In Cape Town, 29 members of the Black Sash were arrested for protesting outside parliament against the execution of the six — which had been scheduled for today, three days before Sharpeville Day.

In Durban, representatives from the Methodist Church, Natal Indian Congress and the Natal Organisation of Women visited the British and American consulates yesterday to ask for further clemency efforts.

In Sharpeville, almost 1 000 people prayed for a last-minute miracle at a church service in the local Dutch Reformed Church at noon yesterday.

Anglican Archbishop Desmond Tutu met Botha to repeat his plea for a reprieve. He described the meeting as "less than friendly".

Botha rejected all the pleas for clemency. Government representatives said the six could escape the gallows only if new evidence surfaced at the eleventh hour.

What gave the Sharpeville Six a breather was a state witness's admission that the evidence he had given against two of the accused was not true. He said police who had assaulted him had told him what to say

This new evidence could come to light because Joseph Manete, who testified incognito, waived his right to attorney-client confidentiality.

During the trial lawyers acting for the six had tried to cross-examine Manete about a statement he had made to a lawyer in Diar's firm — in which he said he had been assaulted by police and forced to implicate two of the accused. But Judge WJ Human had upheld attorney-client confidentiality and ruled out cross-examination.

During yesterday's application for a stay of execution, which was heard by the judge who had convicted them, Judge Human remarked that if he had heard Manete's evidence during the trial, he might have reached a different verdict.

Giving judgement on the applica-

●To PAGE 2

And the one who got away: an ex-cop

By THAMI MKHWANAZI

BARELY three weeks before refusing clemency to the "Sharpeville Six", the state president granted it to a former policeman who a supreme court judge said "cold-bloodedly" shot an "innocent youth".

George John Sindane was sentenced to death last September in the Pretoria Supreme Court for the 1985 murder of the youth, Mabuti Mabane, in Mamelodi

On February 25 his sentence was commuted by the state president to eight years' imprisonment.

This was particularly significant because in the case of the "Sharpeville Six" President PW Botha told Archbishop Desmond Tutu that he did not want to interfere in the legal process.

Sindane shot and killed Mabane at point-blank range on December 1985 and was sentenced to death on September 30 last year

Until April 1986, Sindane had been a police constable of some 10 years' standing. But according to his wife, he resigned because of pressure from the "comrades".

Sitting with two assesors, Mr Justice BJ Curlewis refused him leave to appeal against the death sentence. Sindane petitioned the chief justice for leave to appeal against that decision, but this was also rejected.

He subsequently petitioned the state president for clemency

Barely six months after he entered his death row cell, Sindane was granted clemency. This was confirmed by both the Department of Justice in Pretoria and his lawyers, who said they were informed of this development on Friday.

Sources in Pretoria said Prisoner V3855 has since been removed from death row and had taken his place among ordinary prisoners in the Pretoria jail.

The deceased was in the company of two friends when Sindane pressed a ,38 calibre weapon against his chest, fatally shooting him.

According to evidence submitted in court, the three were walking in Mamelodi at about 9pm with the object of getting transport to Mabopane when they were approached by Sindane, who demanded they give way.

After they had moved to the side of the road, Sindane approached Mabane, pointed the gun at him and said "I will shoot you." Mabane asked why and added "Well, then, you better shoot" — and Sindane shot him at

●To PAGE 2

Looking at the 'Sharpeville Six' — one by one

By JO-ANN BEKKER

THERESA RAMASHAMOLA was convicted of murder and subversion for shouting: "He is shooting at us, let's kill him," when Sharpeville's deputy mayor opened fire on a crowd attacking his house And for slapping a woman who remonstrated when the councillor was dragged to his burning vehicle

That is the only evidence against the 27-year-old former Vereeniging waitress who — until yesterday's late reprieve — was due to be the first woman executed for what many regard as a politically-inspired crime.

The evidence was supplied by a single state witness who gave evidence in camera and incognito

Ramashamola was arrested two months after deputy mayor Khuzwayo Dlamini was stoned, stabbed and burnt to death by unknown persons on September 3, 1984, the first day of the Vaal uprising.

Police took her away in her nightgown and she has never been back to the Sharpeville home she shared with her mother and two younger sisters.

Like the five men among the "Sharpeville Six", Ramashamola was held first as a Section 29 detainee, then as an awaiting trial prisoner She and her co-accused remained in jail for the duration of the trial On December 10, 1985 six of the trialists were convicted of murder and subversion Three days later they were sentenced to hang for the murder charge, and received an eight-year jail term for subversion.

Their appeal against the sentence was dismissed on December 1.

The other five are.

●Mojalefa Sefatsa, 32, who earned a living selling vegetables and fruit from a truck His wife, Regina, gave birth to their only child, a girl, while he was in detention

He was implicated in the attack on Dlamini by the deputy mayor's widow and a state witness identified only as Mr Y. Dlamini's widow said Sefatsa threw a stone at her husband Mr Y claimed he disarmed Dlamini of a gun the deputy mayor had fired into the crowd. Defence lawyers argued Sefatsa could not have performed both acts, which happened almost simultaneously

Sefatsa said he was helping a policeman who was being attacked at the time of Dlamini's killing But the policeman told the court he was attacked much later that day

●Malebo Mokoena, 24, who was engaged to the mother of his five-year-old daughter, was unemployed at the time of his arrest

He was convicted solely on the basis of a confession he made to a magistrate while in custody He claimed he made the statement only after police subjected him to electric shock torture

In his confession, Mokoena admitted throwing one stone at Dlamini's back as he lay on his stomach A pathologist determined Dlamini's death had been caused by brain injury or burning or both.

●Oupa Diniso, 32, was married with two daughters who are 12 and six years old. He worked as an inspector at a steel factory

State evidence was that police, led to his house by Sefatsa, found Dlamini's firearm on Diniso's property.

Diniso said returning from golf on the day after Dlamini's death, he had taken a firearm away from several young boys. Thinking it broken, he put it in his toolbox and forget about it until two months later when police arrived asking for a gun He handed it over immediately.

Diniso's lawyers argued possession of the weapon was not sufficient evidence that he was one of the people who attacked Dlamini

●Duma Khumalo, 28, the father of a six-year-old child, was studying for a teacher's diploma when he was arrested

Two state witnesses, Mr X and Mr Y, claimed Khumalo had stoned Dlamini's house, made petrol bombs, set fire to the house and pushed Dlamini's car out of his garage

Khumalo said he had been forced to join the crowd, but had left to assist a friend who was struck by a bullet at the time of the first attack on Dlamini.

The friend gave evidence confirming Khumalo had taken him to a nearby house for treatment, as did the owner of the house.

The judge, upholding the rule of confidentiality between attorneys and clients, refused to allow defence lawyers to cross-examine Mr X on a statement he had made before he was called as a state witness Lawyers told the court the effect of the statement was that police had told Mr X to implicate Khumalo and fellow accused Francis Mokhesi.

●Francis Don Mokhesi, 31, a player for the Vaal Professionals Soccer Club, was married with a nine-year-old daughter.

He was also convicted on the basis of evidence by Mr X and Mr Y The said he had stoned Dlamini's house, made petrol bombs, ordered the burning of the house and pushed Dlamini's car out of his yard He was arrested five months after the incident in February 1985

Mokhesi said he was nowhere near the scene of the attack He had been injured playing soccer the previous week and as a result of the ankle injury he could walk only with pain and difficulty. His team coach and doctor confirmed the injury and their evidence was accepted by the court.

Respite from Death Row

●From PAGE 1

tion, the judge said he had enough material to grant a stay of execution which would be heard on April 18. Judge Human also criticised newspaper reports which claimed there had been insufficient evidence to convict the six. He said that was "nonsense" as he had found they had actively participated in the killing

The affidavit which Manete agreed to release was read out in court yesterday. In the sworn statement, which was taken by Johannesburg lawyer Mohamed Bham on September 1985, Manete says a statement he had made to the police about events on September 3, 1984 was "not entirely true".

He then gave the lawyer what he said was the real version

"I went to (Sharpeville councillor Khuzwayo) Dlamini's house and saw a crowd of people stoning the house Amongst the people I saw were (defendants) Khumalo and Mosego I saw both of them throw stones at Dlamini's house, but I did not see them actually pouring petrol on the house or stoning Dlamini himself. I also took part in the stone throwing, but I did not take part in the burning of Mr Dlamini"

Early yesterday morning two busloads of families and friends of the Sharpeville Six — most wearing black armbands — journeyed to Pretoria Central Prison for the last visits

At about 11am the spotlight moved to the Pretoria Supreme Court

A mixed mood of despondency and hope filled the public gallery at the beginning of the hearing for a stay of execution Many people were turned away from the small courtroom where the hearing began

After lunch, a larger courtroom was allocated for the hearing and more than 300 people crammed inside

When Judge Human announced he was granting the stay of execution, spectators stood up and — without waiting for the judge to finish his ruling — went outside shouting "Amandla!" While women wept with relief, hundreds danced and sang, under the stern gaze of a large contingent of police

"One minute a person is supposed to die One minute he is no longer going to die. This is a crazy country," a member of the crowd said

One of the first overseas responses to yesterday's court decision came from Canada's Secretary of State Joe Clark, who expressed relief. He hoped whatever the outcome of further legal processes, the Sharpeville Six would not be executed

According to sources in Norway, the Norwegian Ministry of Foreign Affairs had been engaged in a confidential initiative to grant the six political asylum in Norway.

The initiative failed and the Norwegian government was preparing to protest strongly

The South African Department of Foreign Affairs did not reply to queries on the matter

Arrests as Sash stands for the Six

By CLARE HARPER

Twenty-nine members of the Black Sash — including the entire national executive — were arrested yesterday while demonstrating outside Parliament in support of clemency for the Sharpeville Six

Sash national president Mary Burton, national vice-president Jenny de Tolly, former vice-president Margaret Nash and regional chair Beva Runciman, were among those hauled off in the trucks to Caledon Square.

A police representative said the women were due to appear in court late yesterday afternoon on charges "under the law governing gatherings and demonstrations"

Fifteen minutes after the women began their silent protest, two van-loads of riot policemen arrived The women were warned to disperse within 60 seconds or face arrest

A large crowd of onlookers and journalists watched as police backed a truck up in front of the women and loaded them in Many clapped as the women waved back from the van

Sash member Sue Joynt said they knew they were breaking the law, but would not take any legal defence.

She said the Sash had demonstrated because it believed a grave miscarriage of justice was being done The "Sharpeville Six", were to hang when there was no proof that any of them had participated in the killing of township councillor Khuzwayo Dlamini on September 3, 1984

"We find the application of the death sentence for guilt 'by association' gravely disquieting," she said

"The Black Sash call for clemency for the Sharpeville Six and for a land in which peace and justice can flourish To remain silent makes each of us a party to each judicial killing," she said

UDF affiliates call for protest

By MONO BADELA

FOURTEEN organisations affiliated to the restricted United Democratic Front (UDF) this week called for national solidarity action to protest against the planned execution of the "Sharpeville Six" and of 39 other death-row prisoners condemned for politically-linked activities

In terms of Emergency regulations restricting media coverage of boycott activity, the precise nature of the call cannot be reported

The protests will also be the first nationally co-ordinated protest against the effective banning of the UDF and 17 other organisations last month

In a statement issued on Wednesday night, the UDF affiliates said they were outraged by "assaults unleashed by the apartheid state on the rights of our people."

The appeal for protest action is directed to "all South Africans, black and white, workers, professionals, traders and youth, to the churches and temples and mosques to unite together to resist the growing tyranny and repression of apartheid."

The call was issued by the Federation of Transvaal Women (Fedtraw), the Cape Housing Action Committee (Cahac), the Port Elizabeth Youth Congress (Peyco), the Transvaal Indian Congress (TIC), the Natal Indian Congress (NIC), the Atteridgeville/Saulsville Residents' Organisation (Asro), the East Rand People's Organisation (Erapo), the Soweto Students' Congress (Sosco), the Durban Housing Action Committee (DHAC), the Johannesburg Democratic Action Committee (Jodac), the Northern Transvaal Peoples Congress (NTPC), and the UDF Women's Congress

And the one who got away ...

●From PAGE 1

point-blank range

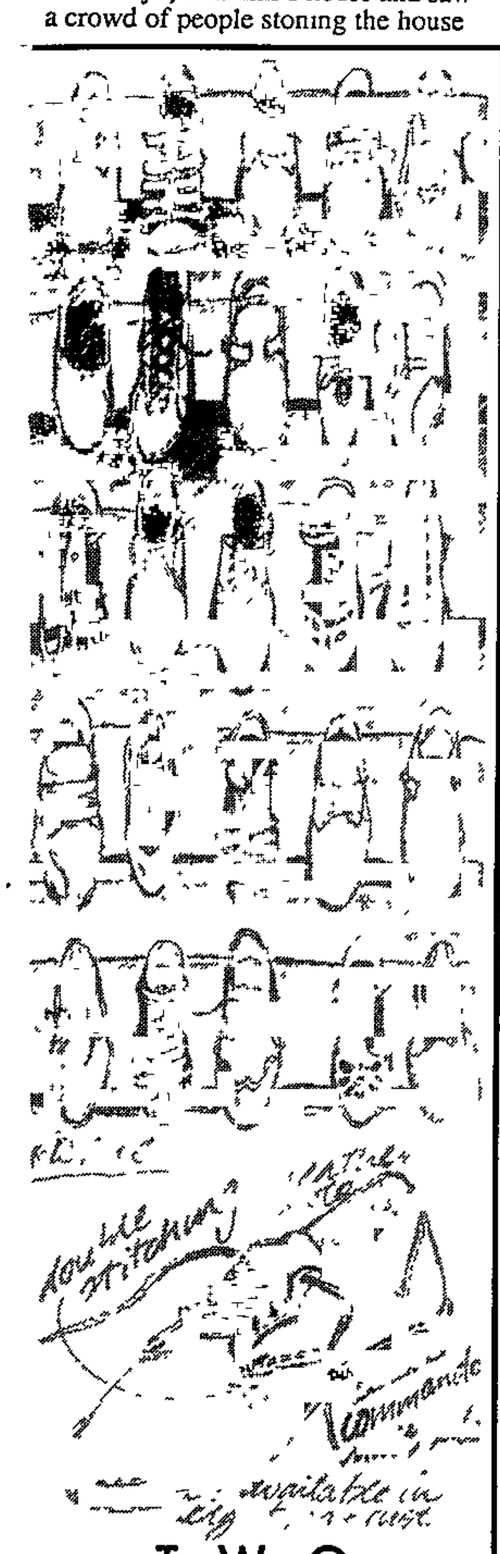
Mabane died as his friends took him round in a taxi, searching for a doctor.

The revolver used by Sindane had been issued on November 21, 1985, the day police fired on a crowd marching to the council offices to protest against rent increases, killing 23. Sindane returned the revolver in March 1986, a week before he left the force

In his evidence, Sindane said "comrades" had prevented him from visiting his in-laws and had previously smashed windows of his in-laws' house. His soft-spoken wife, who had been visiting her husband three times a week, said her two brothers had also been policemen but had resigned.

Sindane's reprieve came as worldwide protests and appeals to save the "Sharpeville Six" from the gallows were reaching fever pitch In contrast with Sindane's case, in which he was convicted of shooting Mabane in cold blood, there was no evidence in either the supreme court case or the appeal court judgement on the six that any of them had contributed directly to the injuries which killed councillor Jacob Dlamini Their conviction was on the basis of "common cause".

Meanwhile, Emergency detainees held at Johannesburg prison announced in a statement they would hold a two-day fast on Wednesday and Thursday to observe the execution of the six



Cape Times 30/3/88 (252)

'Addo 4' will not be hanged today — dept

PRETORIA — The Department of Justice said yesterday that reports that four members of the Addo Youth Congress were to be executed today were wrong

A spokesman said the "process" leading to the execution of the four murderers had not been finalized yet The "process" refers to the period within which those on death row can make representations for clemency or an effective postponement of their execution

It could not be established when the four — S Wonci, M Menze, M Makeleni and N Sephenuko — would be executed

Seven men were hanged yesterday, taking the number of executions on the Pretoria gallows to 36 this year

White brothers Benjamin and Dirk Roussouw were convicted of a murder in Vryburg, black brothers Richard, Sihle and Victor Mzinane for a murder in Ladysmith and Sipho Mahala and Lungile Rewu for a killing in Port Elizabeth — Sapa, Sapa-Reuter

(2) how many farmers were prosecuted in that year for offences under the relevant provisions of the Animal Diseases and Parasites Act, No 13 of 1956?

The MINISTER OF AGRICULTURE

(1) 257

(2) 54

Legal Aid Board unpaid financial/contingent financial obligations

338 Mr D J DALLING asked the Minister of Justice

(a) What were the unpaid (i) financial and (ii) contingent financial obligations of the Legal Aid Board as at 31 January 1988 and (b) what cash funds did the Board have at its disposal as at that date?

The MINISTER OF JUSTICE

(a) (i) and (ii) A rough estimate done by the staff of the Legal Aid Board indicates that the Board may receive accounts for about R14,7 million in respect of live cases (some of them up to thirteen years old) probably over the next thirteen years This is a contingent liability which becomes claimable in the future as and when these cases reach finality Should these cases therefore not reach finality the contingent liability will be reduced accordingly

(b) On 31 January 1988 the Board had R4 685 410 at its disposal This includes the balance of funds appropriated, interest received and legal costs recovered The administration costs of the Board amount to approximately 14% of its annual budget The remainder is available for legal aid to needy persons The Board therefore has sufficient funds to fulfil its financial obligations for the current financial year

The Board's financial obligations in respect of live cases referred to in (a), must not be assessed in direct relation to its cash funds referred to in (b); since the cash funds only have to cover the Board's cash flow until 31 March 1988 The Board is funded annually in such a way as to be able to fulfil its accumulated financial obligations in a specific year This is apparent from the budget of R12 million which has been appropriated to the Board for the following financial year, in contrast with the budget of R9 million for the current financial year

I may add that due to the nature of the Legal Aid Board's activities it occurs that cases, especially civil cases, are only disposed of years after legal representatives are instructed and that legal costs become payable only then It is also not possible to predict in which financial year a case will be disposed of and the legal costs become payable It is therefore difficult to budget accurately The effect of the suspension of services and the restriction of legal costs is likewise unpredictable However in the past, whenever an unforseen and uncontrollable shortfall loomed in a particular financial year, the Government has always been able to make arrangements for additional funds.

Bulk electricity supply to local authorities: action by Eskom

751 Mr C J DERBY-LEWIS asked the Minister of Economic Affairs and Technology

Whether he will furnish information on the action taken by Eskom in respect of local authorities failing to pay in time for bulk electricity supplied to them, if not, why not, if so, what (a) action is taken and (b) period of grace is allowed in such cases?

The MINISTER OF ECONOMIC AFFAIRS AND TECHNOLOGY

Yes

(a) (1) A reminder is given to the local authority by Eskom

(2) Eskom negotiate personally with the local authority about new payment arrangements

(3) In the last resort, legal action is taken by Eskom and or termination of power supply is effected

(4) Once Eskom gave reminder notices, interest is raised on overdue accounts

(b) Fifteen days for large consumers, but this period can, in certain cases, be specified in the consumer's contract with Eskom Thirty days for small consumers

Bulk electricity supply: period of grace exceeded

752 Mr C J DERBY-LEWIS asked the Minister of Economic Affairs and Technology

Whether he will furnish information on the number of local authorities which exceeded the period of grace allowed by Eskom in respect of bulk electricity supply, if not, why not, if so, (a) how many were there during the latest specified 12-month period for which information is available, (b) which local authorities were involved and (c) what were the relevant amounts in each case?

The MINISTER OF ECONOMIC AFFAIRS AND TECHNOLOGY

Yes

(a) 313 large consumers

(b) and (c) These answers rest on company confidential information and can, therefore, not be disclosed

Printing contracts awarded to two companies

835 Mr D J DALLING asked the State President

(1) Whether his Office awarded any printing contracts in 1987 to two companies, the names of which have been furnished to the Commission for Administration for the purpose of his reply, or to their associated companies and printing operations, if so, (a) in respect of what publications or printed matter, (b) how many copies of each publication or item were ordered from each company and (c) what are the names of the companies concerned,

(2) whether these contracts were put out to tender, if not, (a) why not and (b) what was the total amount paid by his Office in respect of each of these contracts, if so, what was the (i) tender price originally accepted, and (ii) total amount paid out, in respect of each contract,

(3) whether his Office subsidizes any publications published by the above companies, if so, (a) which publications and (b) (i) why, and (ii) what is the amount of the subsidy, in each case,

(4) what total amount was spent by his Office in 1987 on printing and publishing involving (a) the above companies and (b) any other specified companies?

The STATE PRESIDENT

(1), (2), (3) and (4) No

Printing contracts awarded to two companies

845 Mr D J DALLING asked the Minister of Transport Affairs

(1) Whether the Department of Transport awarded any printing contracts in 1987 to two companies, the names of which have been furnished to the Commission for Administration for the purpose of the Minister's reply, or to their associated companies and printing operations, if so, (a) in respect of what publications or printed matter, (b) how many copies of each publication or item were ordered from each company and (c) what are the names of the companies concerned,

(2) whether these contracts were put out to tender, if not, (a) why not and (b) what was the total amount paid by this Department in respect of each of these contracts, if so, what was the (i) tender price originally accepted, and (ii) total amount paid out, in respect of each contract,

(3) whether this Department subsidizes any publications published by the above companies, if so, (a) which publications and (b) (i) why and (ii) what is the amount of the subsidy, in each case,

(4) what total amount was spent by this Department in 1987 on printing and publishing involving (a) the above companies and (b) any other specified companies?

The MINISTER OF TRANSPORT AFFAIRS

(1) No

(a), (b) and (c) Fall away

(2), (3) and (4) Fall away

N3 between Hilton/Estcourt: cost of upgrading

875 Mr R W HARDINGHAM asked the Minister of Transport Affairs

(a) What was the cost of upgrading the N3 between Hilton and Estcourt in 1985, 1986 and 1987, respectively, and (b) (i) what is the estimated cost involved in upgrading the N3 between Howick and Estcourt and (ii) in respect of what date is this estimate furnished?

952

PW's halt of murder trial to be challenged

Argus Africa News Service

WINDHOEK. — President Botha's certificate which indemnified six Defence Force soldiers from facing a murder charge is to be challenged in the Supreme Court here this week.

Mr Hartmut Ruppel, legal representative of the family of Mr Immanuel Shifidi, the man the six are alleged to have murdered, confirmed they were applying to have President Botha's certificate declared invalid.

The certificate was issued last week just before six soldiers, including four white officers, were to go on trial.

Mr Shifidi died in violence at a Swapo rally in Windhoek's Katutura township on November 30 1986.

Prosecution of the six men was ordered after an inquest found Mr Shifidi's death had been caused by a group of unknown men who attacked the rally with knives, pangas, knobkerries, bows and arrows.

The inquest heard that a number of soldiers in civilian clothes were taken from a military base in Owambo to Windhoek just before the rally. The soldiers were seen with a variety of weapons.

Swapo claimed after Mr Shifidi's death that members of the South West Africa Territory Force were responsible for the killing, and in particular members of the 101 Owambo Battalion.

Four of those charged with the murder of Mr Shifidi were from 101 Battalion, including its commander, Colonel Willem Welgemoed.

SA's execution rate shows slight drop since last year

28/3/88 Star (252)

By Patrick Laurence

One person has been hanged every three days since the beginning of the year, a slightly lower execution rate than that for last year

Seven men, all black, were hanged on Friday, bringing the total since January 1 to 29, against the 164 people who were hanged last year The seven who went to the gallows on Friday were hanged for murder One, Michael Lucas, was a political activist

When more than one person is executed on a single day — Friday is the favoured day for hangings, with Tuesday rating second — it is not known whether they are executed successively or simultaneously. There are unconfirmed reports of a hanging machine capable of executing seven people simultaneously.

When the Minister of Justice, Mr Kobie Coetsee, was asked in Parliament whether more than one person could be hanged at the same time and whether multiple executions had taken place, he declined to answer

Had lawyers for the Sharpeville Six not won a stay of execution in a dramatic court hearing two weeks ago, the 1988 execution rate would have been roughly the same as for that of 1987.

Six men, five black and one coloured, have been reprieved by presidential clemency since January 1 One was a policeman, George John Sindane, who was convicted of murdering a black youth in Mamelodi in 1985.

Of the 29 men executed so far this year, 20 were black, eight were coloured and one was white The white man was Anton Stoop He was hanged on January 29 Six black men were hanged on the same day

NEW TRADITION

Stoop's execution brought the number of white men hanged since late last year for killing black people to three Before that Johan Wessels (19) and George Scheepers were hanged.

The execution of white men for the murder of black people may mark the start of a colour-blind tradition in the sentencing and execution of people convicted of murder. Until then whites almost invariably escaped the noose if their victims were black

7 murderers hanged in Pretoria today

Pretoria Bureau

Seven men were hanged at the Pretoria Central Prison today, including an Oudsthoorn activist whose last-minute appeal for a stay of execution failed yesterday.

The activist, Bongolethu Youth Congress member Michael Lucas, was found guilty of murder after he shot an Oudtshoorn bus driver during unrest in the area in 1986.

His application was based on a technical challenge over the constitutionality of Acting Chief Justice Pierre Rabie's appointment

The six others hanged were:

- Boy Ntsokolo Stafeni (29) and Amos Meje (26) who received the death sentence for the murder of a 65-year-old man.
- Mduduzi Jeza (19), who received the death sentence for the murder of a 69-year-old woman.
- Albert Hlathi (25) who received the death sentence for the murder of a 79-year-old man, and counts of rape and robbery
- Vusimuzi Cele (27) for the murder of a 40-year-old man.
- Benjamin Mlondolozi Gxotiwe (27) for the murder at a road block of a 26-year-old white policeman who suspected Gxotiwe's car of being stolen.

This brings to 29 the number of people executed in South Africa this year.

24/3/88 Star 252

Bhongolethu mourns their son at dawn

Cape Times 26/3/88

By SAHM VENTER

A SOMBRE church service was held in Oudtshoorn at dawn yesterday to mark the execution of Bhongolethu youth, Michael Lucas.

It stood in stark contrast to a militant service of about 1 500 people at the Alphen cinema in an Oudtshoorn suburb of Bridgton the previous night.

About 100 friends, family and supporters — including a contingent from Cape Town — participated in the emotionally-charged service at St Simon's Anglican Church.

Several policeman waited outside the church. Armed men in plainclothes took down registration numbers of cars parked outside.

The service was timed to co-incide with the hanging of Lucas, 22, at Pretoria Central Prison at 7 am, for the April 1986 killing of a bus inspector and former security policeman, Mr William Blaauw.

According to a community worker, Lucas had expressed his gratitude to his attorney, Mr Essa Moosa, for attempting an eleventh-hour appeal to the Pretoria Supreme Court.

Mrs Nettie Majola, mother of Mr Desmond Majola, another Bhongolethu man sentenced to death for the "necklace" killing of a community councillor in 1985, wept silently as the congregation knelt in prayer.

Father Isaac Josephs led a prayer for "our brother, Michael Lucas as he prepares himself to be executed". As the hour drew closer, several people kept an eye on their watches. There was nothing left to do but pray.

As the sun rose over the southern Cape town, church bells rang out and the congregation sang 'Nkosi Sikelel' i'Afrika' (Lord Bless Africa). It was 7 am and Michael Lucas was dead

25-30/3/88 (252) W/Mail

In the shadow of the Sharpeville Six, more 'politicals' go to the gallows

By JO-ANN BEKKER

LAST Friday while many sighed with relief at the temporary stay of execution granted the "Sharpeville Six", convicted necklace murderer Tsepo Letsoara was led to the gallows

Today, seven more people are scheduled to hang — including Michael Lucas, a member of the Bongolethu Youth Congress who was convicted of murdering a bus driver during unrest in April 1986

And this week four members of the Addo Youth Congress were given notice that they would be executed next Tuesday Similo Wonci, Mziwoxolo Makeleni, Ndumiso Sephenuko and Machezuana Menze were sentenced to death for killing a farmer and his wife in the southern Cape.

There were indications last week that the unprecedented campaign to save the six Sharpeville residents — convicted of burning and setting alight Sharpeville deputy mayor Khuzwayo Dlamini at the start of the September 1984 unrest — would see the start of a concerted abolitionist campaign.

At a Johannesburg meeting last week a speaker from the Save the Patriots Campaign called for a broad alliance of "peace-loving people" to fight executions

"There are tens of comrades on death row," he said. "Tomorrow it will be myself. The day after it will be yourself."

But Letsoara's hanging — for killing an alleged police informer in Port Elizabeth — and the scheduled executions for today and Tuesday have gone largely unnoticed

Lucas's unsuccessful application for a stay of execution yesterday received none of the media attention devoted to a similar application by the Sharpeville Six last week. His 11th-hour bid hinged on the fact that Chief Justice Rabie had denied him leave to appeal against his sentence. His lawyers argued Rabie's appointment was unconstitutional

According to records of the Save the Patriots Campaign, and Johannesburg lawyers, there are a total of 48 "politicals" on death row at the moment, including those scheduled to be hanged today and on Tuesday

Apart from those named above, they include:

- The Sharpeville Six — Theresa Ramashamola, 27, Mojalefa Sefatsa, 32, Malebo Mokoena, 24, Oupa Diniso, 32, Duma Khumalo, 28, Francis Mokhesi, 31 — whose lawyers have until April 18 to apply for the reopening of the case Once the application is made, the execution orders will be suspended.
- Dickson Madikane, Desmond Majola and Patrick Manginda from Oudtshoorn who were sentenced to death in September 1986 for killing a township councillor
- Daniel Maleka and Josiah Tsawane of Sebokeng, who were sentenced to death in September 1986 for killing a policeman.
- Paul Setlaba of Colesburg, sentenced to death in December 1986 for killing an alleged police informer.
- Robert McBride of Wentworth, Durban, sentenced to death in April 1987 for a Marine Parade bombing which killed three women.
- Tjelubuyo Mgedezi, Mangaliso Nongwati, Tsietsi Tshehlane, sentenced to death in May 1987 for killing team leaders at the Vaal Reefs mine.
- Mzwandile Gqueba, Wanto Silinga, Lunki Wana, Thembinkosi Feet, Mzwandile Mninzi, Monde Tingwe of Queenstown
- Bekisizwe Ngidi, 20, of Soweto, sentenced to death in June 1987 for killing a Soweto policeman His case is currently on appeal.
- Oupa Mbonane and Sibusiso Masuku of Soshanguve near Pretoria, sentenced to death in August 1987 for the murder of a policeman
- Joseph Chidi of Tembisa, sentenced to death in September 1987 for the murder of a community councillor.
- Menzi Tafeni and Ledube Mnyamana, sentenced to death in September 1987 for the murder of a Burgersdorp businessman's son
- Mlondolozi Gxotiwe of Port Elizabeth, sentenced to death in September 1987 for the murder of a policeman
- Mxolisi Malgas, Michael Mambukwe and Lulamile Maneli of Grahamstown, sentenced to death in October 1987 for necklace murders in Stutterheim
- Johannes Maseki, 24, of Tembisa, sentenced to death in October 1987 for the murder of a policeman
- Gilindoda Gxexwa of Uitenhage, sentenced to death last year for the murder of a police informer
- Mtutuzeli Ngqanda of Uitenhage, sentenced to death in November last year for the murder of a policeman
- Mzazile Ntombela, 30, sentenced to death by the Rand Supreme Court for the murder of a replacement labourer during a dairy strike
- Thembisile Baneti, 35, of Alice. Sentenced to death by the Ciskei Supreme Court last November for the murder of a vigilante
- Abraham Mngomezulu, 23, sentenced to death in the Rand Supreme Court last year for the murder of a police informer.
- Xolani Stuurman, Gilindoda Gxekwa and Vuyani Jacobs, sentenced to death in February this year by the Port Elizabeth Supreme Court for the murder of an alleged informer
- Rodney Moloi, 24, and Stanford Lebepe, 24, Tembisa, sentenced to death last week for killing and setting alight a municipal policeman. They have applied for leave to appeal.

According to the Save the Patriots Campaign, six "political" convicts on death row have already been executed. Apart from Letsoare, they were. Matshape Matsepane and Mankopane Malwasha of Tzaneen, who were executed in December 1986 for murdering an alleged informer, Welile Webushe of Jansenville, who was executed in August 1987 for a necklace murder, and Moses Jantjies and Mlamli Mielies of Uitenhage.

25-30/3/88 ...der trial

area, approximately 218 ha in extent, south of Lansdowne Road in the Vicinity of Nyanga/Crossroads as a development area, if not, why not, if so, (a) what is the nature of the development proposed and (b) when is it intended that such development be (i) commenced and (ii) completed,

(2) whether (a) core houses, (b) other specified housing, (c) serviced sites and (d) unserviced sites for residential purposes are to be provided, if not, why not, if so, (i) how many in each case and (ii) what is the estimated total number of persons to be accommodated in this new area,

(3) who or what categories of persons are to be (a) allowed and (b) given preference to live in this new area,

(4) whether any persons or groups are being consulted in respect of the proposed development, if not, why not, if so, (a) what persons or groups, (b) when and (c) what have been their responses,

(5) what total amount is it estimated will be spent by the State on this development,

(6) whether the State owns the land concerned, if not, (a) who is the owner, (b) when was an agreement of sale between this owner and the State entered into and (c) how much is to be paid for the land, if so, (i) since when, (ii) how much was paid for the land (iii) from whom was it bought?

The MINISTER OF CONSTITUTIONAL DEVELOPMENT AND PLANNING

1 No, the matter is still under consideration

Rest of question falls away

Black pensions: applications outstanding in Cape Province

229 Mr J J WALSH asked the Minister of Constitutional Development and Planning

What total number of (a) applications for Black pensions in the Cape Province was outstanding as at the latest specified date for which information is available and (b) Black pension applications was approved in each of the latest specified 12 months for which information is available?

The MINISTER OF CONSTITUTIONAL DEVELOPMENT AND PLANNING

(a) 3 276 on 29 February 1988

(b) March to August 1987 — not available

September 1987	1 444
October 1987	824
November 1987	1 612
December 1987	890
January 1988	2 104
February 1988	3 205

Drought conditions: loss of foreign exchange

296 Mr H H SCHWARZ asked the Minister of Agriculture

What is the estimated loss of foreign exchange suffered by the Republic in 1987 in respect of (a) additional imports and (b) loss of exports attributable to drought conditions in the Republic?

The MINISTER OF AGRICULTURE

(a) R374 073 000

(b) R669 885 000

Lawsuits brought against Minister of Justice by public

330 Mr D J DALLING asked the Minister of Justice

(1) Whether any lawsuits were brought against him in 1987 in his capacity as Minister of Justice by members of the public, if so, (a) how many and (b) what (i) were the circumstances of the lawsuit and (ii) was the outcome in each case,

(2) whether he paid out any moneys (a) as a result of successful lawsuits brought against him and (b) in out-of-court settlements, if so, what total amount in that year?

The MINISTER OF JUSTICE

(1) Yes

(a) 65

(b) (i)

Number	Cause of action
4	unlawful arrest
5	unlawful arrest and malicious prosecution
18	unlawful detention
3	unlawful detention and malicious prosecution
3	malicious prosecution
5	general damages
3	crimen injuria
1	insufficient medical treatment
3	injuries
1	death
19	assault

(ii)

Claims settled out of court	*Claims not proceeded with by the plaintiff*	*Claims pending*
12	6	47

(2) (a) No

(b) Yes — R107 749,42

The amount includes settlements reached pursuant to letters of intention to institute action and actions instituted during 1985 and 1986 and settled during 1987

Blacks moved from urban areas in RSA to Black states

441 Mr P G SOAL asked the Minister of Constitutional Development and Planning

(a) How many Blacks were moved from urban areas in the Republic to Black states in 1987 and (b)(i) from which urban areas, (ii) to which Black states, and (iii) why were they moved, in each case?

The MINISTER OF CONSTITUTIONAL DEVELOPMENT AND PLANNING

ORANGE FREE STATE

(a) None

(b) (i), (ii) and (iii) Fall away.

CAPE PROVINCE

(a) None

(b) (i), (ii) and (iii) Fall away

TRANSVAAL

(a) 269 persons (60 families)

(b)

(i)	(ii)	(iii)
Benoni	KwaNdebele	Of own request
	KaNgwane	do
Brakpan	Ciskei	do
	Bophuthatswana	do
	KaNgwane	do
	KwaNdebele	do
	KwaZulu	do
	QwaQwa	do
Boksburg	KaNgwane	do
	KwaNdebele	do
	QwaQwa	do
Germiston	KaNgwane	do
	KwaZulu	do
	Transkei	do
Nigel	Bophuthatswana	do
	Gazankulu	do
	KaNgwane	do
	KwaNdebele	do
	KwaZulu	do
	QwaQwa	do
	Transkei	do
	Lesotho	do
	Swaziland	do
Springs	Venda	do
	KwaNdebele	do
	KwaZulu	do
	Lebowa	do
	Lesotho	do
Soweto	KwaZulu	do

NATAL

(a) None

(i), (ii) and (iii) Fall away

Old-age pensions: Blacks applied

449 Dr M S BARNARD asked the Minister of Constitutional Development and Planning

(1) (a) How many Black persons applied for old-age pensions in 1987 and (b) how many of these applications (i) had been (aa) granted and (bb) turned down and (ii) were still under consideration as at the end of that year,

(2) what was the total number of Black persons receiving old-age pensions as at the latest specified date for which figures are available?

The MINISTER OF CONSTITUTIONAL DEVELOPMENT AND PLANNING

TRANSVAAL

(1) (a) 24 881

(b) (i) (aa) 20 409

(bb) 2 775

'Windhoek Six' action condemned

Botha under fire for halting trial

By BRUCE CAMERON
Political Staff

PRESIDENT P W Botha was under fire from jurists and politicians today with demands for an explanation for halting the murder trial of the "Windhoek Six".

The halting of the trial under a section of the Defence Act of the six SADF and the SWA Territorial Force members was being compared today with President Botha's refusal to use his discretion to commute the death sentences of the "Sharpeville Six" on the grounds that it would be an interference in the courts.

The Bar Councils of both SWA/Namibia and South Africa have condemned President Botha's actions

President Botha was under fire for not answering for his actions in Parliament yesterday when the matter was raised

The demands for an explanation from President Botha met with a firm "no comment" today

The Progressive Federal Party vowed today not to drop the issue PFP Law and Order spokesman Mrs Helen Suzman has already tabled questions in Parliament and Mr Dave Dalling MP, PFP justice spokesman, said the matter would be raised in the President's vote in Parliament in three weeks time

Mr Dalling, who raised the issue in Parliament yesterday, said today President Botha "should have been in Parliament to explain his actions — but then he was very seldom in Parliament"

Mrs Suzman said today "I am asking whether he has issued such a certificate and why

"There seems to be in the President's mind that at all times he should act as the father protector of the SADF no matter what — with the police not far behind"

Mr Dalling said in Parliament it was ironic that President Botha had refused to intervene in the case of the "Sharpeville Six" but had stopped the due process of law in the Windhoek case

"A jungle"

"The Government has ceased to rely on clear law and relies instead on the opinions of the executive There is no law, it is a jungle"

According to the charge sheet, the "Windhoek Six" were accused of acting jointly or seperately and had acted in the execution of a common aim which had resulted in the death of Mr Immanual Shifidi

They were accused of having incited 101 Battalion to disrupt a political meeting in Windhoek on November 30 1986 and of assaulting the people present

The accused knew or should have anticipated their actions could have caused disruption, assaults and even death, according to the charge sheet

Appeal fails: Lucas and six others hanged

Argus 25/3/88

The Argus Correspondent

JOHANNESBURG. — Seven convicted murderers, including Michael Lucas whose last-minute bid for a stay of execution failed yesterday, were hanged in Pretoria this morning.

Lucas was sentenced on August 21 last year in the Cape Town Supreme Court after he was found guilty of murdering a bus driver in Oudtshoorn during riots in 1986.

The others were Richard Mduduzi Jeza, Albert Hlathi, Boy Tafeni, Amos Meje, Samson Vusimuzi Cele, and Benjamin Mlondolozi Gxotiwe.

● The Argus Foreign Service reports from London that about 30 members of the Anti-Apartheid Movement held an all-night vigil outside the South African embassy for Lucas.

A short service for Lucas was held this morning, and AAM members laid a wreath in his memory.

State appeal to put Sister Bernard back in the dock

By THAMI MKHWANAZI

THE state intends to appeal against the court decision last week to drop sedition and subversion charges against Sister Bernard Ncube, president of the Federation of Transvaal Women, and her 13 co-accused

Magistrate JJB Esterhuizen quashed all the charges last Thursday following an application brought by the accused.

According to a representative of Priscilla Jana and Associates, the accused's lawyers, prosecutor H van Eden announced the state would appeal against the magistrate's decision.

Members of the group submitted that the state had not complied with the magistrate's order of February 2 which required the prosecution to furnish further particulars.

Opposing the application last week, Van Eden argued the accused had been supplied with sufficient particulars to prepare their case and knew the exact nature of the charges.

It was announced at a press conference last Thursday that the 14 and another man, Bizos Katane, who had been detained with the group but was not charged, would be suing the minister for damages totalling R5,5-million.

Summonses had been served on the minister of law and order between January 19 and February 18 this year. The group claimed they had been unlawfully detained for a year from the period of their detention under section 29 of the Internal Security Act on August 21, 1986. The 15, all members of the Krugersdorp Residents Organisation, were originally detained in June 1986 at the beginning of the State of Emergency

On July 21, 1987, Mr Justice Leveson ordered the release of one of the 15, Lawrence Ntlokoa, following an application brought by family members. In their affidavits, Ntlokoa and another detainee argued that although the purpose of section 29 detention is interrogation, the applicants had not been interrogated while in detention under that section.

Ntlokoa was subsequently charged on August 21 last year with 13 others for sedition, subversion and assault with intent to do grievous bodily harm. A state application for leave to appeal against Justice Leveson's decision releasing Ntlokoa was dismissed with costs.

Bail for the other accused was eventually granted after a lengthy battle. Bail conditions restricted the accused, all residents of the Krugersdorp townships of Kagiso and Munsieville, from entering the magisterial district of Krugersdorp; they stayed in Johannesburg near the trial court.

The state alleged the 14 had aimed to establish their own alternative civic authority in order to govern the townships of Kagiso and Munsieville and had unlawfully striven to create political, social and cultural awareness and solidarity among black people in those townships.

PW slated for interference

Political Staff

HOUSE OF ASSEMBLY — President P W Botha was accused yesterday of interfering with the courts, and contradicting the stand he took in refusing clemency for the Sharpville Six, by having murder charges against six soldiers withdrawn

PFP Justice spokesman Dave Dalling and Peter Gastrow (NDM Durban Central) said Botha should withdraw the certificate he issued to have the charges dropped.

The row over six members of the SADF and SWATF who were charged with the death of Emmanuel Shifidi at a political meeting in Windhoek's Katatura township came after Botha refused to grant the Sharpville Six clemency because he did not want to interfere with the courts

Dalling said the Attorney-General had decided to prosecute after considering the evidence of more than 50 witnesses The charge sheet included charges of public violence and murder and alleged that about 50 members of 101 Battalion, in civilian clothes and armed with weapons such as pangas and kiris, had been ordered to break up the meeting

Dalling asked "Can any killing of this nature or any other kind be in good faith? Is he (Botha) of the opinion that Katatura township is by any logical or factual definition part of the operational area? Was this attack on a crowd calculated to suppress terrorism?"

The answer to these questions had to be "no", said Dalling "The effect of the SP's action is that the normal course of justice has been ruthlessly interfered with

"This is ironic, for only last week the President refused to grant clemency for the Sharpville Six stating as one of his reasons that he did not wish to interfere with judicial processes

"Secondly, persons possibly guilty of murder will go unpunished Thirdly, confidence in and respect for our judiciary has been undermined

"Fourthly, the defence force is effectively put above the ordinary law of the country and, fifthly, government has ceased to rely on clear law and relies instead on the opinions of the executive

"In other words there is no law, it is a jungle"

Gastrow said he agreed with what Dalling had said

B/day 25/3/88

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two assessors

CAPE TIMES 25/3/88

Free legal aid project started in SA

PRETORIA. — Lawyers for Human Rights (LHR) yesterday announced a nationwide "free legal aid" project

National director Mr Brian Currin said LHR aimed to secure the involvement of 2 000 lawyers throughout the country and their response had been "very positive"

"In view of the state's failure to provide meaningful representation, we believe that it is the duty of the legal profession to step into the breach," he said "If each lawyer volunteered three days per year, we'd have 6 000 days of free legal representation"

Mr Currin said the project would not duplicate or compete with existing human-rights structures

Individuals will be referred to existing avenues, such as the Legal Aid Board, small claims court, legal resources centres and university legal aid clinics, before involving a *pro bono* lawyer — Sapa

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SP 'interfered ruthlessly' with justice

Mr Gastrow had to withdraw allegations that Mr Botha was "sabotaging" the legal system

Political Staff

HOUSE OF ASSEMBLY. — The State President, Mr P W Botha, had "ruthlessly interfered" with the normal course of justice by having murder charges against six SADF and SWATF soldiers withdrawn, Mr Dave Dalling, chief PFP justice spokesman, said yesterday.

"The government has ceased to rely on clear law and relies instead on the opinions of the executive There is no law, it is a jungle."

Mr Dalling and Mr Peter Gastrow, NDM MP for Durban Central, called on Mr Botha to withdraw the certificate he issued to have the charges dropped

The row over the six members of the SADF and SWATF who were charged with the death of Mr Emmanuel Shifidi at a political meeting in Windhoek's Katatura township comes after Mr Botha refused to bow to pressure to grant the Sharpeville Six clemency because he did not want to interfere with the courts

"The effect of the SP's action is that the normal course of justice has been ruthlessly interfered with," Mr Dalling said

"This is ironic for only last week the state president refused to grant clemency to the Sharpeville Six stating as one of his reasons that he did not wish to interfere with judicial processes How cynical can one be?"

"Secondly, persons possibly guilty of murder will go unpunished. Thirdly, confidence in and respect for our judiciary has been undermined

"Fourthly the Defence Force is effectively put above the ordinary law of the country"

Mr Dalling said the Attorney-General had decided to prosecute after considering the evidence of more than 50 witnesses

The charge sheet included charges of public violence and murder and alleged that about 50 members of 101 Battalion, dressed in civilian clothes and armed with traditional weapons such as pangas and kieries, had been ordered to break up the meeting.

"In other words, due legal process was being followed and the proper administration of justice was taking its ordinary course,' said Mr Dalling.

The accused would have had every opportunity to establish their innocence in a trial

Mr Gastrow said he agreed with what Mr Dalling had said and added. "It is a scandal that the SP should be the saboteur of our legal system."

He also accused him of undermining the system but was ordered to withdraw the remarks.

It was indefensible, he said

PW's move confusing, damaging to law - Bar

JOHANNESBURG. — The discontinuation of the Windhoek trial of six members of the military in Namibia created the impression that two standards of obedience to the laws of the land and justice existed, the chairman of the General Council of the Bar in South Africa, Mr H P Viljoen, said yesterday.

"If the accused are innocent due legal process would have revealed that fact If they are guilty the protection afforded them by the executive authority is far-reaching and unfortunate.

"It creates the impression that two standards of obedience to justice exist — one for the ordinary citizen and another for members of the Security Forces of the State.

"Such a perception in the mind of the nation does incalculable damage to the regard in which the law and the country's system of justice are held"

The General Council of the Bar joined in the fully-motivated statement of the Society of Advocates for Namibia in which strong exception was taken to the interference of the executive government in the due processes of law.

The Windhoek Bar Council said in a statement on Wednesday that it had learnt "with shock and disbelief" that the trial had been prohibited and deplored the situation "that an incisive measure such as the issuing of a Section 103 ter certificate (issued by the President), which provides for a different situation, has been abused to prohibit judicial criminal procedure in these circumstances".

Mr Viljoen said the members of the Defence Force who were involved in the incident included two colonels — one the OC 101 Battalion.

The Bar was convinced that the erosion of confidence of the ordinary citizen in the impartiality with which the government combated crime "is far more harmful to the country than the allowing the judicial process to run its course" — Sapa

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Dear President Botha,

We apppeal to you to accept the plea for clemency made by the following six people:

1. Majalefa Reginald Sefatsa
2. Reid Malebo Mokoena
3. Oupa Moses Diniso
4. Theresa Ramashomola
5. Duma Joshua Khumalo
6. Francis Don Mokhesi

The above-mentioned six, five men and one woman, have been sentenced to death in South Africa.

We, therefore, appeal to you to prevent their execution and to commute their sentences.

This would be looked upon as a humane gesture by the International Community.

Yours sincerely,

Alma Schmidt, Stuttgart, employee
Eva Feller, 1300 Kiel 14, student
Christa Cheval-saur, Stuttgart-30, employee
S Müller, 7146 Tamm, employee
K Müller, 7146 Tamm, employee
Elke Stumph, Stuttgart-1, cook
Wolfgang Uhlig, Stuttgart-50
Rainer Hofmann, Stuttgart-50, Betriebswirt
Susanne Rielhammer-Heckl, Stuttgart-40, nurse
Anita Wiese, Stuttgart
Adele Sperandio, Stuttgart, OTV member
Gmoser Renate, 7046 Nebringen
Claus Eppe, Stuttgart-1, assistant lecturer
Jörg Gotz, Heidelberg, teacher
Caroline Herre, Stuttgart, teacher
Helga Zeeb, 7065 Winterbach, teacher
Anna Klenote 7065 Winterbach, housewife
Gertrud Moll, Stuttgart
Verena Schnur, Stuttgart, student
Susanne Bauer, Stuttgart, unemployed
Doris Bauer, Stuttgart-50, subscriber
Inge Pipiorke, Stuttgart, employee
Herbert Beyerlein, 7014 Kornwestheim, programmer
Ursula Nickel, Stuttgart-30, technician
Renate Knapper, Stuttgart-1, social worker
Werner Schmidt, Stuttgart-1, economist
K Steffen, Stuttgart, unemployed
L Weisser-Reinhard, Stuttgart-50, librarian
Raili Salmela, Stuttgart-61, sec union
Burger Lichtenstein, Stuttgart-80, general practitioner
Irmgart Ehrich, Stuttgart, doctor
Peter Rauscher, Stuttgart-1, teacher
Hansi Knödel, Stuttgart-1
Hans Wunderlich, 7044 Ehningen
Christl Gudo, 7300 Esslingen, social worker
Gunhild Hage, 7000 Stuttgart-1, educationalist
Helga Schneeberger, Stuttgart-50, teacher
South Africa, scholarship found, Tübingen
Pro Okumeme Stuttgart
Lothar Bauer, Korntal, parson
J Bauer, Korntal
Jens Herbst, 7101 Flein, secretary of the union
Heidi Scharf, 7000 Stuttgart, sec union
Reinhard Meuter, 7443 Fridenhausen, sec union
Karlheinz Schierle, 74 Tübingen, sec union
Klaus Lörcher, Stuttgart 50, sec union
G Zoller, Stuttgart, sec union
J Reich, sec union
H -D. Wollfarth, Stuttgart-1, lawyer
Rainer Rehwohl, 7505 Ettlingen, sec union
Uwe Silberberger, 67 Ludwigshafen, sec union
Manfred Lang, 7900 Ulm, lawyer
Hermann Oberhofer, Stuttgart, sec union
Hermann Blanke, Stuttgart-40, sec union
Jutta Dahlmann, Stuttgart, sec union
Klaus-J. Ledebuhr, Stuttgart-80, sec union
Wolfgang Schöll, Albstadt, sec. union
Heinz Schilling, Ludwigsburg, sec union
Bruno Nickel, 7148 Remseck, sec union
Bernhard Di Croce, 7032 Sindelfingen, sec union
Peter Bokenkröger, Stuttgart, trainee
Jürgen Stamm, Stuttgart-1
Manfred Dautel, Sindelfingen-7, editor
Hans Bauer, 7016 Gerlingen, sec union
Hansjörg Schmierer, 7130 Mühlacker, sec union
Božkurt Sönmez, Stuttgart, sec union
Hubert Schmidt, Stuttgart-75, sec union
Peter Sonnenschein, 7030 Böblingen, sec union
Manfred Schwarz, Stuttgart, sec union
Albert Trettin, 7312 Kirchheim, sec union
Paul Hildebrand, Stuttgart, parson
Angela Warmbrunn, Stuttgart-70, social worker
Jürgen Waldmann, 7 Stuttgart 31, Jugendreferent
Werner Kunz, Heilbronn, reverend
Anne-Liese Kurz, housewife
Elisabeth Hödl, Heilbronn, retired
Thomas Schild, Esslingen, teacher
Josef Birk, Esslingen, reverend
Dr Konrad Moll, Esslingen, reverend
Gerhard Sihler, 7100 Heilbronn-Frankenbach, garden-architect
Olga Schaak, 7100 Heilbronn, pensioner
Inge Stein-Koller, Heilbronn, housewife
Martha Dröge, Heilbronn, landscapearchitect
Margaret Treanor, 7022 Leinfelden-Echterd, teacher
Gudrun Richter, Stuttgart 75, employee
Helga Golaub, Stuttgart-80, employee
Karin Kaltholf, 7253 Renningen, specialist
Renate Schwaderer, Aldinger Str 30, 7014 Kornwestheim, Dipl Verwaltungswirt
Ina Mohns, Egerländerstr 1, 7250 Leonberg, Vikarin
Hilde Hiller, Eck.-Conzstr 10, 7260 Calw, housewife
Dorothea Friederich, 7024 Filderstadt, P H N
Irmtraud Hertel, 7140 Ludwigsburg, Silcherstr 9, med -techn Ass
Lore Fischer, 7121 Cleebronn, housewife
Helmut Kraft, 7250 Leonberg-6, nurse
Sigrid Schwarz, 7150 Backnang, socialworker
Margret Rein, 7000 Stuttgart-80, housewife
Dr Anne-Lore Schmid, 7250 Leonberg, doctor of medicine
Grete Mehl, Nürnberg, womens adult education
Else Ensslin, 7000 Stuttgart-1, housewife
Sieglinde Krauss, 7250 Leonberg, housewife
K J Schmidt, 7000 Stuttgart-50, Pfarrer
Heidi Soine, 7250 Leonberg, housewife
Marie Dilger, 7448 Wolfschlugen, housewife
Rev Otto Dilger, 7448 Wolfschlugen, parson
Christa Bauer, 7250 Leonberg, teacher
Dr H Gundert, 7448 Wolfschlugen, doctor of agriculture
Dorle Schoof, Mühlacker, teacher
Karin Haussmann, 7448 Wolfschlugen, engineer
Doris Gundert, 7448 Wolfschlugen, health assistant
Dorothea Dilschneider, 79 Ulm, women's leader
Gerhard Dilschneider, 79 Ulm, adult education worker
Hildegard Lenz, Bremen, teacher
Lisel Michel, Frankfurt, adult education
Hanna Habermann, Frankfurt, theologian
Ursula Trautwein, Frankfurt, teacher
Marie Luise Stöhr, Siegen, librarian
Rosemarie Bolte, Frankfurt, women's worker
S Teichmann, 7000 Stuttgart 50, teacher
Ingo Schmale, 7000 Stuttgart 1, SPD/OTV
Perez Conrasi, 7302 Ostfildern 4, mayor
Frank Brauns, 7000 Stuttgart 50, Dipl Ing
Rudi Schaaf, 7000 stuttgart 80, teacher
Manfred Herrmann, 7000 Stuttgart 31, bookseller
Werner Uhlig, 7000 Stuttgart-80, employee
Suso Lederle, 7000 Stuttgart-1, doctor
Christel Mutter, 7000 Stuttgart-1, programmer
Jasmin Wedekind, 7000 Stuttgart-1, nurse
Peter Drenker, 7140 Ludwigsburg, teacher
Virendra Shah, 7016 Gerlingen, programmer
Hanne Shah 7016 Gerlingen, housewife
Monika pogenth, 7124 Bönnigheim, teacher
Brigitte Kubler, 7120 Bietigheim, teacher
Brigitte Maier, 7120 Bietigheim, priest
Hanne Kunz, 7210 Bietigheim, teacher
Christl Weller, 7210 Bietigheim, mother
Maike Hass, Bietigheim, mother
Kerstin Esch, Bietigheim, mother
Heide Müller, Bietigheim-Biss, secretary
Martin Kübler, Bietigheim, art director
Heidrun Ha ible, 7123 Sachsenheim 2, teacher
Michael Kunz, Bietigheim, student
Heinz Kunz, Bietigheim, engineer
Sibylle Grüniger, Tübingen, housewife
Eberhard Buder, Bietigheim, reverend
Elisabeth Buder, Bietigheim, interpreter
Käthe Buchruder, Bietigheim, housewife
A Graef, Bietigheim, deacon
Lore Bernecker, Bietigheim, deacon
Karl Leiprecht, 7121 Ingersheim, teacher
Irene Leiprecht, 7121 Ingersheim, housewife
Jörg Wolfer, Bietigheim, teacher
Sigrid Kolb, Bietigheim, housewife
Karoline Uhde, Bietigheim, housewife
Eberhard Straub, 7180 Crailsheim, parson
Hans Rücker, Esslingen, parson
Kurt Wagner, 7149 Freiberg, parson
Waltraud Hager, 7065 Winterbach
Ernst Hager, 7065 Winterbach, parson
Renate Wallentin, 7107 Nordheim, lady of the house
Dr Wuni Wallentin, Nordheim, medic internist
Betti Tuffensammer, Nordheim
Elisabeth Braun, Backnang, social worker
Wolfgang Hinker, 7159 Auenwald 1, teacher
Irmtraud Hinker, Auenwald, housewife
Roswitha Funk, 7158 Sulzbach, Pax Christi Sulzbach
Barbara Moos, Sulzbach, Pax Christi Sulzbach
Rosemarie Lang, Sulzbach, Pax Christi Sulzbach
Bernd Philipp, 7100 Heilbronn
Fabian Azela, Heilbronn, Translater
Monika Spengler, Heilbronn, writer
Günther Spengler, Heilbronn, parson

south NEWS

SOUTH, MAR 31 TO APR 6

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Death Row mystery

GRAHAMSTOWN - Lawyers acting for four Addo Youth Congress members on death row in Pretoria were startled to read that their clients were due to be executed this week

They instituted a court application for a stay of execution because the State President had not yet replied to a petition asking for clemency sent to him by the four

Mr Similo Wonci, Mr Mziwoxolo Makelini, both of Port Elizabeth, Mr Makhwezana Menze of Addo and Mr Silo Siphenuka of Sunlands were convicted of the murder of a farmer and his wife in January last year They each received a double death sentence

According to a report last Friday, they were to be hanged on Tuesday, but on the day before the execution was to have taken place, some family members were still unaware of the situation

Mr September Makeleni, grandfather of one of the men, said he was very worried, but did not know what was going to happen.

Late on Monday evening the situation was still unclear, but desperate attempts were being made to save the four from the gallows.

A South African Press Association report filed during the night said the four were to be hanged early in the morning

When the lawyers wanted to apply to the courts for a stay of execution, they were told they would not have to do so, as their clients were not on the list of those to be hanged.

It is now hoped the State President will pardon the four. - *ANA*

Court upholds 'Mail' convictions

Weekly Mail Reporter

THE Appellate Division yesterday upheld a conviction for contempt of court against *Weekly Mail* co-editor Anton Harber and reporter Jo-Ann Bekker.

Harber and Bekker were convicted by Mr Justice K van Dijkhorst during the "Delmas" treason trial on May 7, 1986.

The judge had objected to a report on the trial headlined "A judge's own notes on police activities", two sentences in a report headlined "Commission shuns 'agitator' thesis" and another report headlined "About-face from a key state witness".

Harber was fined R750 or three months' imprisonment and ordered to publish a correction, and Bekker was fined R200 or one month's imprisonment, suspended for two years.

The appeals were dismissed by a majority decision of Mr Justice Vivier, with the concurrence of Acting Chief Justice Mr Justice Rabie, Mr Justice Jansen and Mr Justice Viljoen.

Justice van Heerden filed a judgement that dissented from the others in some respects.

Harber and Bekker were represented by Dennis Kuny SC, assisted by Gilbert Marcus.

31/3-7/4/86 (252) W/Mail

CAPE TIMES 31/3/88 252

Family challenges PW's decision to stop murder trial

WINDHOEK — Attorneys for the Shifidi family yesterday served documents challenging the validity of a decision by President P W Botha to halt the murder trial of six soldiers in the Supreme Court here, lawyers said.

The six were to have faced charges of public violence and murder of a veteran Swapo member and former Robben Island prisoner, Mr Immanuel Shifidi, at a Swapo public meeting at Katutura township outside Windhoek on November 30, 1986

The six are Colonel Johannes Vorster, Colonel Willem Welgemoed, Commandant Antonie Botes, Lieutenant Nikolaas Prinsloo, Corporal Eusebius Kashimbi and Rifleman Steven Festus

At the instructions of the State President, a certificate in terms of Section 103 of the Defence Act was issued by the Administartor-General of Namibia, Mr Louis Pienaar, to stop the proceedings

The section indemnifies members of the security forces from criminal prosecution or civil action if they act in good faith in the combating of terrorism in an operational area

The applicant in the pending hearing is Mr Shifidi's daughter, Miss Hilda Shifidi

As respondents are cited Mr Pienaar, Mr Botha, the SWA/Namibian Attorney-General, Mr Estienne Pretorius, and the Minister of Defence, General Magnus Malan

'Full-scale riot'

In a sworn statement annexed to the summons, Miss Shifidi said "It is a matter of great concern to me that those who have been implicated in the killing of my father should be brought to justice"

The applicant submits that the issuing of the certificate was outside the scope of Section 103, since there is no factual basis to believe the accused have acted "in good faith" in connection with "the suppression or prevention of terrorism" and that it is "not in the national interest" for the prosecution to go ahead

Neither did the alleged murder and the violent disruption of the political meeting take place in an "operational area" as defined by the Defence Act

According to the charge sheet annexed to the summons, the accused acted in common purpose to incite a 54-member detachment of Ovambo's 101 Battalion to infiltrate the meeting in civilian dress and to attack those present with spears, bows and arrows, knives, sticks and stones

The fighting developed into a "full-scale riot" in which Mr Shifidi was killed, several other people were injured and property was damaged, the charge sheet said

The accused should have foreseen the consequences of their actions, it added

Taking into account all the circumstances, Miss Shifidi said, the issuing of the certificate was not in compliance with the provisions of Section 103 of the Defence Act

The respondents have 14 days to notify the Windhoek Supreme Court whether they intend opposing the application — Sapa

(252) W/Mail 31/3-7/4/88

In Easter week, fourteen hangings

By JO-ANN BEKKER

FOURTEEN people were hanged in Pretoria in the week before Easter — at least four of them for murders many see as politically-related.

This brings to 36 the number of people executed in South Africa this year, of which at least five were "political" convicts

On Tuesday seven people were executed on the gallows in Pretoria Central Prison which accommodate multiple hangings

They included Sipho Mohala, 21, and Lungile Rewu, 19, of Zwide, Port Elizabeth, who were sentenced to death for the "necklace" murder of a 16-year-old youth in 1985 Rewu was 17 at the time of the crime.

Also hanged on Tuesday were Benjamin Rossouw, 20, and Dirk Rossouw, 21, convicted of murdering an elderly man near Vryburg in 1986, and Dlozilakhe Richard, 23, Fihle Mzinyane, 19, and Victor Mzinyane, 20, who were convicted of a murder near Bergville in 1986

Mohala and Rewu's names were not included on the Save the Patriots list of "politicals" on death row This means there were 50 known "politicals" on death row last week With the latest executions, the known number is 46

Since December 1986 a total of 10 "political" convicts have been hanged — most for unrest-related murders

Those executed last Friday, March 25, included two "politicals"

Michael Lucas, 20, a member of the Bongolethu Youth Congress in Oudtshoorn, was convicted of murdering a bus driver during unrest in April 1986 His eleventh-hour bid for a stay of execution failed.

Benjamim Mlondolozi Gxotiwe was sentenced to death in September 1987 by the Port Elizabeth Supreme Court for the murder of a policeman

Those who went to the gallows with them were Boy Tafeni and Amos Meje — both convicted of murder by the Graaff-Reinet circuit court in 1985, Samson Vusimuzi Cele, convicted of murder by the Pietermaritzburg Supreme Court in 1987, Albert Hlathi, convicted of murder by the Vereeniging Circuit Court in 1987, and Richard Mduduzi Jeza, convicted of murder by the Scottburgh circuit court in November 1987

● The *Weekly Mail* reportedly incorrectly last week that four members of the Addo Youth Congress had received notification that they would be hanged this week Unofficial reports that this was the case were inaccurate It was impossible to verify this information with official sources as the only information about executions is given, by the sheriff of the Pretoria Supreme Court, once the hangings have already taken place.

The *Weekly Mail* apologises to families and lawyers of the four men for any inconvenience or hardship caused by the report

Two appeals with major implications for media

By THAMI MKHWANAZI

JUDGEMENT was reserved this week in two Appeal Court hearings which could have far-reaching implications for press freedom in South Africa

The appeals, both made by the state, were heard on Monday in the Appeal Court in Bloemfontein

The state is appealing against an earlier decision by a full bench of the Natal Supreme Court which had declared invalid, *inter alia* , media regulations that sought to restrict comment and media coverage of unrest and "security action" and other restrictions

The appeal follows a successful application brought by the United Democratic Front and the Release Mandela Campaign, heard by Natal Judges N Page and B Galgut

The judgement, handed down in April last year, declared invalid a substantial number of regulations under Proclamation R224 of 1986

The Natal full bench declared valid a prohibition on the publication of blank spaces intended as a reference to the effect of the media regulations On appeal it was contended on behalf of the UDF and the RMC that this regulation was invalid *inter alia* because it appeared to countenance written comment, satire or criticism but not the leaving of blank spaces

The state is further appealing against a decision by Justice R Leon in the Durban Supreme Court which invalidated those provisions in the media regulations which gave the commissioner of police the power to identify certain acts, the reporting of which would amount to publication of a subversive statement

The application was brought in 1987 by the RMC, the Black Sash and the Detainees' Parents Support Committee

Because the court found the commissioner of police did not have such powers, it also made an order that a notice published by the commissioner on April 10, 1987 was invalid

The notice sought to identify as a subversive statement the "participation in any campaign, project or action aimed at accomplishing the release of persons, for example by signing a petition calling upon the government to release certain persons, wearing in public a sticker or any article of clothing or exhibiting in public a poster protesting against or disapproving of the detention of certain persons, attending a gathering held or performing any act as a symbolic token of solidarity with such persons."

Opposing the first appeal, the UDF and RMC argued that the regulations were invalid on the grounds that in their proclamation in terms of the Public Safety Act, the state president had exceeded the authority conferred on him by parliament in that he had made regulations which could not have been within the contemplation of parliament.

It was also argued that the regulations were vague in that they left persons, including editors and reporters, uncertain as to what they could and could not do

It was further put that the state president had in certain instances conferred discretionary powers on subordinate officials, without indicating the guidelines according to which that discretion could be exercised in law.

The state submitted that the president was fully empowered by the Public Safety Act to make such regulations

A media lawyer commented that although the former appeal concerned the validity of media regulations proclaimed under the previous 1986/1987 State of Emergency, the outcome of the appeal was nonetheless important because the principles laid down would be relevant in determining the limit of the state president's powers to make media regulations in an Emergency

Marks, Thomas out on R500 bail

(252)

TWO people charged with furthering the aims of a banned organisation were released on R500 bail in the Oudtshoorn magistrate's court last week

They are William Patrick Thomas, 26, youth co-ordinator of the United Democratic Front (UDF), of Hanover Park, and Andhor Marks, 23, a third-year law student at the University of the Western Cape, of Steenberg.

Both men were arrested two weeks ago and held at the Oudtshoorn police station

Lawyers said it was not yet known which banned organisation the court referred to

The case had been postponed to May 20 for further investigations

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SOUTH

Argus 8/4/88 252

Call on private sector to improve legal aid for poor

By MICHAEL DOMAN
Supreme Court Reporter

THE private sector and municipalities should contribute to legal aid organisations to give more of the poor access to the sophisticated but inherently expensive legal system, a senior advocate says.

During a discussion of the cost of litigation at the National Bar Conference in Cape Town yesterday, Mr S A Cilliers of Johannesburg also suggested that advocates should not "monopolise" the law but should widen access to it and become the source of legal information and guidance for the poor.

Mr Cilliers, a member of the Legal Aid Board, said advocates should teach the poor what their rights were and when to resort to litigation

"We make a good living in our field and that is where we should make a bigger contribution," he said.

Free advice

"It has been suggested that if each member of the Johannesburg Bar set aside one day every two months to render free advice and assistance to the poor, seven counsel would be available every day of the year.

"They could then assist legal aid bureaus from communities with their more difficult cases."

Mr Cilliers said that although the State's contribution to legal aid institutions could and should be increased, the principal burden of such funding should lie with the private sector

Municipalities should also pitch in financially and create legal advice bureaus, he said

Another means of ensuring legal assistance for more people would be through legal insurance

"But it is difficult to convince people that insurance is necessary since they think the need for it will never arise"

Medical aid

The main way, he said, would be in a form analogous to medical aid schemes which, a few decades ago, were regarded as "strange".

"In addition, companies which have legal advisers should make them available to employees to help with rent or criminal problems.

"Smaller companies could combine to provide the services of a legal adviser or bureau, and even industries could provide assistance, as with the industrial court set-up."

Mr Cilliers praised the work of para-legal institutions such as the Legal Aid Bureau, the Legal Resources Centre, Legal Aid Board, the small claims court and various officials who looked after the interests of the small man, often for little reward.

Reports on Six 'shocking'

B/Day HELEN CHAPPEL 252

ACTING Chief Justice P J Rabie yesterday criticised local and international media reports on the "Sharpeville Six" as shocking and disgraceful.

Speaking at the opening of the National Bar Conference in Cape Town, he said untrue and scandalous allegations were increasingly appearing in newspapers and other publications.

Rabie said anyone who knew anything of SA's judicial system would reject certain remarks about it with scorn.

He quoted a London Times article that referred to the Sharpeville Six as "victims of a disgraceful piece of legal chicanery".

The article said: "Such a judicial system hardly deserves the name. It is little more than a charade designed to deter and intimidate — terror tailored to the purposes of the State."

Certain local newspapers had published similar comment on the case, quoting a Wits University professor as

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● To Page 2

Sharpeville Six reports shocking — Rabie

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● From Page 1

B/Day 8/4/88

saying "The Appeal Court has widened the doctrines of criminal liability in response to evidence of township revolt"

In addition, a report by the US government on human rights issues alleged that hearings involving security legislation were sometimes held in inaccessible places to make it difficult for journalists and observers to attend

Similarly it was stated that the SA government attempted to ensure important cases involving security legislation were heard only by certain judges.

Rabie said one could only surmise South Africans — and others who knew better — would hold such unfounded and scandalous allegations concerning the legal system in contempt.

He also warned the legal profession to guard against bringing about changes which could lead to a lowering of standards.

"And let no one say SA is a Third-World country and that we must, therefore, even if only to a certain extent, accept a lowering of standards. Damage caused in such a way cannot be rectified."

Before weighing up any fundamental changes to the legal system, there should first be a thorough study and consideration of the whole matter, he said

The topic related to a system which had been in existence for many years and the importance of the issue demanded calm, diligent consideration.

Rabie said this was in the interests of the advocates' profession, attorneys' profession, the Bench and the public

Clash over fees at Bar meeting

By TONY SPENCER-SMITH

THE chairman of the General Council of the Bar of South Africa, Mr Henri Viljoen, clashed publicly yesterday with a top Transvaal attorney over an "excessive" R50 000 fee allegedly charged by an advocate.

The clash took place at one of the biggest meetings of South African legal men in years, the first national Bar conference, which is being held at the Cape Sun Hotel

Mr Viljoen told the gathering it was "extremely regrettable" that Mr C A Jaffe, the president of the Transvaal Law Society, had repeated claims about the fee first made last year at the annual meeting of his society

Earlier Mr Jaffe had told the conference that there was a feeling among members of the public that attorneys and advocates sometimes overcharged, and this was not in the interests of the legal profession

He said his society was not in a position to give details of the source of the claim about the R50 000 fee, as it was a sensitive matter

Approached for comment afterwards, Mr Viljoen said the Bar Council had not been presented with a shred of evidence by the attorneys to support the claim

"It was very wrong to bring it up again here If the claim is true, we want to take action against it"

Mr Jaffe later told the Cape Times he had raised the matter only because Mr Michael Kuper SC, the chairman of the Johannesburg Bar Council, had himself brought it up in an address to the conference.

Judge slams SA judiciary's critics

THE Acting Chief Justice, Mr Justice P J Rabie, lashed out yesterday at criticism of the country's judiciary and legal system which followed the trial and appeal of the Sharpeville Six.

Opening the first National Bar Conference in Cape Town, he said the SA legal system was as good as, if not better than, any other in the world

Mr Justice Rabie was referring particularly to articles in certain newspapers

He said the Times of London had stated: "The people whose execution is now fixed for Friday are the victims of a disgraceful piece of legal chicanery ... It is little more than a charade designed to deter and intimidate — terror tailored to the purposes of the state"

This was shocking and disgraceful and anyone who knew anything about the judicial system would reject those remarks with scorn, he said.

He also attacked an article which appeared in certain SA newspapers "said to have been written by someone attached to the Daily Telegraph".

"In it a member of the Wits Law Department is quoted as saying that 'the Appeal Court has widened the doctrines of criminal liability in response to evidence of township revolt'."

Untrue and scandalous allegations about SA's legal system were appearing more frequently in newspapers and other publications, he said.

Restraints on courts 'an injury to the law'

Staff Reporter

EVERY limit placed by the state on the ability of the courts to protect the individual inevitably caused injury to "the very body of the law", a senior advocate said yesterday.

Speaking at the National Bar Conference in Cape Town, Mr Michael Kuper SC, chairman of the Johannesburg Bar Council, said that in a situation where the law was manifestly under strain an independent Bar had to show its strength by defending it.

There was a real danger, when a court was bypassed, that the law ceased to be credible and to demand respect.

Mr Kuper made a strong plea for the retention of the system whereby judges were drawn from the senior members of the Bar He said the system was a precious asset.

Cape Times, Friday, April 8, 1988

Clash over fees at Bar meeting

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He said the Times of London had stated· "The people whose execution is now fixed for Friday are the victims of a disgraceful piece of legal chicanery .. It is little more than a charade designed to deter and intimidate — terror tailored to the purposes of the state "

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Untrue and scandalous allegations about SA's legal system were appearing more frequently in newspapers and other publications, he said

Nine years after, Mahlangu's contradictory legacy lives on

(252) W/Mail 8-14/4/88

Nine years after his execution, the name of Solomon Mahlangu still has enormous power in South Africa. To many whites, he was a trained ANC terrorist, the first to be captured and executed. To many blacks, he was a martyr, his death commemorated every year. VUSI GUNENE reports on the service this week

THE ninth anniversary of the execution of African National Congress guerrilla Solomon Mahlangu was marked with solemnity this week in his home township of Mamelodi

Mahlangu was detained in 1978 after a shoot-out in Johannesburg's Gogh Street, when police spotted three 'suspicious' looking men walking down a street and gave chase.

One of the three opened fire and two people were killed and several policemen wounded in the resulting shootout

Mahlangu himself was never accused of killing anyone, his conviction, similar to that of the Sharpeville Six, was on the grounds of 'common purpose'

Mahlangu spent a year on death row before being hanged, and an international campaign was mounted calling for clemency for him

Mahlangu's name has contradictory meanings to South Africans to whites, a trained terrorist, to blacks, a symbol of resistance, honoured each year in prayer services on the anniversary of his death, April 6

Despite the strictures of the State of Emergency, the tradition was maintained on Wednesday, as more than 200 people commemorated the execution

The prayer service in Mamelodi, organised by the Pretoria branch of the Federation of Transvaal Women (Fedtraw), was held at a local church — without the usual security force presence

The *Weekly Mail* visited Mahlangu's mother on the morning of the anniversary Martha Mahlangu, a patron of the restricted United Democratic Front, said "it pains me to think about this day I cannot erase the thought of it It is something that will remain with this family until eternity " She was released from detention on June 12, 1987, having spent a year in custody

Her son was born on June 10, 1956, and left the country in 1976 to undergo military training He reentered South Africa the following year.

In a prayer service late on Wednesday afternoon, Rev Lucas Mabusela of the Pretoria Council of Churches told mourners· "As we remember Solomon Mahlangu, we should also remember those young people who are now on death row, and (we should remember) their families

A moment of silence was observed in honour of assassinated ANC representative Dulcie September, and the four people who died in the recent South African security force raid into Botswana

At the service, which was characterised by freedom songs and poetry readings, the recent bannings of extra-parliamentary organisations was condemned

Memories of a funeral that never was

The family and mourners arrived for the Mahlangu funeral in 1979. The church was filled to overflowing. The body never arrived. THAMI MKHWANAZI remembers

NINE years ago, Solomon Mahlangu's family and scores of mourners attended a funeral that never was

On the day Mahlangu was hanged, I went to Mamelodi, near Pretoria, to observe for my newspaper the preparations for the funeral of the first African National Congress guerrilla to be executed

Mahlangu was to be given a funeral from his parents' home, unlike the paupers' burials in Mamelodi that customarily followed hangings at the Pretoria gallows The Prison Service confirmed that an exception to the rule would be made Mahlangu's body would be handed to his family after the execution for burial

Family members had paid the necessary grave fee, for which a receipt had been issued A requiem mass had been planned at the local Catholic church

Cows, sheep and hens had been slaughtered to feed the mourners expected after the burial at the local cemetery

A week's vigil at the family home preceded the hanging Freedom songs, slogans and war cries were sung and chanted night after night in the packed marquee tent at the back of the Mamelodi home

When Mahlangu was hanged, a large crowd waited outside Pretoria Central Prison with family members for his body It never came Enquiries made at the prison about the handing over of the body to the family were in vain

Eventually prison authorities told the family to go home and promised to deliver the body to the church for the service

The crowd outside the prison dispersed, with many people rushing to Mamelodi to be in time to witness the arrival of the body at either the church or the cemetery

The Catholic church was overflowing with mourners Family members had taken their place in front, before the altar Hymns were sung, interspersed with prayer

But the body did not arrive

Meanwhile another crowd waited at the cemetery There too the body did not come

Four hours after Mahlangu was hanged, together with four other men, several vehicles of South African Police appeared at the cemetery, a senior black uniformed member used a loudhailer to order mourners outside the cemetery to disperse He said he had been instructed by his authorities to inform them that the body would not arrive

The police left but returned to issue a second warning, giving the crowd five minutes to disperse The crowd ignored him and, five minutes later, police used teargas, batons and sjamboks to scatter the crowd, which made its way to the family home They were joined by a crowd from the church, a similar announcement had been made there

Surprisingly, although there had been no burial, they observed tradition at the house and washed their hands in the water kept outside the house in baths, with hand towels hung over the fence and gate.

As after a real funeral, mourners were served meals, dessert and cool drinks As after a real funeral, they greeted and smiled at one another, but it was done with a pinch of salt.

Responding to newspaper enquiries, a spokesman for the South African Prisons Service said his department had been instructed by the security police not to release Mahlangu's body to the family

Where was the body?

A woman who had passed the Atteridgeville cemetery that morning on her way to board a train to work told commuters of what she described as a "miracle"

She said she saw a police jeep escorting a van into the cemetery To her surprise, as there were no adults' burials in Atteridgeville on weekdays, she saw two adult-size coffins removed hurriedly from the van and buried alongside each other

Also to her surprise she saw the "mourners", some in uniform, leaving the moundless graves without topping them with the usual flowers and ornaments The "funeral", she said, was conspicuous by the absence of an officiating minister and the crowd that accompanied funerals of adults in Atteridgeville

Two days later, Mahlangu's mother took both the security police and prison authorities by surprise when her photograph appeared on the front page of the *Sunday Post*, weeping by her son's grave in the Attendgeville cemetery.

FOR THE RECORD

WESTERN Cape United Democratic Front executive member Willie Hofmeyr spent two nights in police cells this week before appearing in court on charges of contravening his restriction order He was released and told to reappear on June 21

Another UDF executive member, William Thomas, has been served with a restriction order It is believed he is the last of the 18 people the government initially announced it intended to serve with restriction orders.

COSTS incurred by the University of the Youth Congress, Moses Mahlangu and Daniel Ntsoseng, has been postponed until May 18 They are facing charges under the Terrorism Act.

PW BOTHA, addressing a parade this week in Pretoria to commemorate the 75th anniversary of the police, called on the public and media not to belittle the South African Police. The SAP was not perfect, he said.

MORE than 200 people have died on South Africa's roads during the seven-day Easter

Sharpeville Six leader: paper refuses to print criticism

D/D 9/4/88

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Daily Dispatch Correspondent

CAPE TOWN — The Times of London has refused to publish a letter from the General Council of the Bar of South Africa, sharply criticising a leader in that newspaper about the Sharpeville Six case

The chairman of the council, Mr Henri Viljoen, told the delegates to the National Bar Conference in Cape Town yesterday he was "incensed" at the decision.

When he announced that he had received a letter from the editor of the Times saying that he was "not able to find room for it in the correspondence columns", the judges and top lawyers present reacted with surprise and anger.

A spokesman for the Times said the council's letter had not been published because it had been received at the same time as one from the Charge D'Affaires at the South African Embassy in London, which had been published

The Bar council letter referred to a leader in the Times of March 16, in which the South African Appeal Court's decision to uphold the death sentences imposed on the Sharpeville Six was described as "a disgraceful piece of legal chicanery"

The leader went on to describe the South African judicial system as "little more than a charade designed to deter and intimidate — terror tailored to the purposes of the State."

The letter stated that the trial judgement in fact applied the doctrine of common purpose which had been laid down in earlier judgments of the court and which had originally been taken over from English law

The court had found that all the accused had actively associated themselves with the conduct of the mob and shared a common purpose to kill the deceased

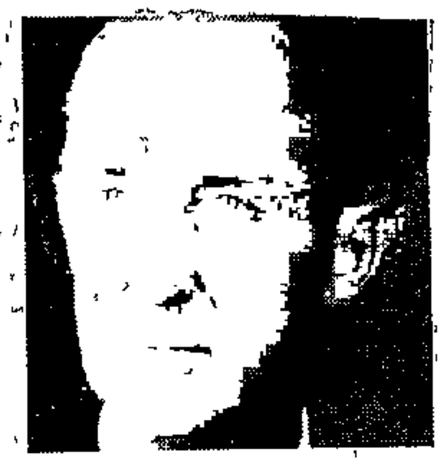
"The court found that it would constitute a drastic departure from firmly established practice to hold that a party to a common purpose to kill cannot be convicted unless a causal connection is proved between his own conduct and the death of the deceased

Justice A S Botha's judgement in the Appellate Division had been in accordance with a previous judgment in a case with no political overtones, the letter said

Mr Viljoen's letter concluded, "given the lack of factual substance for your opinions, they constitute a disgraceful and unwarranted attack on the South African judiciary."

More reports page 16

Prof Laurie Ackermann



Mr Justice M M Corbett

Call for lawyers to support democracy

Cape Times 9/4/88

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Staff Reporter

SOUTH AFRICAN lawyers who did not come out in support of the introduction of liberal representative democracy in South Africa were endorsing the status quo, Professor Laurie Ackermann, professor of human rights at the University of Stellenbosch, said yesterday

In an address on meeting the challenge of change delivered at the National Bar Conference in Cape Town, Prof Ackermann — until recently a Supreme Court judge — said lawyers could not hide behind neutrality in the face of enormous international developments in the field of human rights

The question of the vote in South Africa was regarded by some as a party political issue into which it was improper for lawyers to trespass

"The challenge is quite clear fair and genuine participation in the political process of a country is a fundamental human right of every citizen"

Prof Ackermann told the large gathering of judges, advocates and attorneys that the constitution, and many of the laws which sustained it, was materially at variance with human rights norms

London Times 'no' to SA Bar's letter

Cape Times 9/4/88

By TONY SPENCER-SMITH

THE Times of London has refused to publish a letter from the General Council of the Bar of South Africa sharply criticizing an editorial comment in that newspaper about the Sharpeville Six case.

The chairman of the council Mr Henri Viljoen told the delegates to the National Bar Conference in Cape Town yesterday he was "incensed" at the decision

When he announced that he had received a letter from Mr Charles Wilson, editor of the Times, saying that he was "not able to find room for it in the correspondence columns", the audience of judges and top lawyers reacted with surprise and anger

Expect an apology

Mr Viljoen read out to the delegates the council's letter, which he had signed, and which concluded "Is it too much to expect an apology in the light of the facts?"

This letter refers to the second leader in the Times of March 16, in which the SA Appeal Court's decision to uphold the death sentences imposed on the Sharpeville Six is described as "a disgraceful piece of legal chicanery", and which describes the SA judicial system as "little more than a charade designed to deter and intimidate — terror tailored to the purposes of the State"

Mr Viljoen's letter continues "These statements would appear to be based on the supposition that the trial judgment (upheld on appeal) had created 'a doctrine which established the death penalty for merely being present at a riot at which death occurs'

"Your leader goes on to say that the judgment 'raises the spectre of a system of criminal justice which has forsaken its first principle That proof of criminal activity depends on evidence of the act or of the intention to commit it'

The judgment in fact applied the doctrine of common purpose which had been laid down in earlier judgments of the court and which had originally been taken over from English Law

THE TIMES

1 Pennington Street, London E1 9XN
Telephone 01-481 4100 Telex 262141

28 March 1988

Mr. Henri Viljoen,
Chairman,
General Council of the Bar of
South Africa,
607 Huguenot Chambers,
40 Queen Victoria Street,
Cape Town,
South Africa.

Dear Mr. Viljoen,

The Editor thanks you for your letter of March 24. Although it has been read with interest here and carefully noted, he regrets he was not able to find room for it in the correspondence columns.

Yours sincerely,

K.F. Collins

The court had found, on the facts, that all the accused had actively associated themselves with the conduct of the mob and shared a common purpose to kill the deceased

"The court found that it would constitute a drastic departure from firmly established practice to hold that a party to a common purpose to kill cannot be convicted unless a causal connection is proved between his own conduct and the death of the deceased

"The judgment of Mr Justice A S Botha in the Appellate Division was exactly in accordance with what he held in a judgment handed down more than five years earlier in a case which had no political overtones whatever"

Law crisis as lawyers refuse to be judges

Cape Times 9/4/81

252

Staff Reporter

SOUTH AFRICA is going through a "crisis in the administration of justice" because top advocates are not accepting appointments as judges, an Appeal Court judge told delegates to the National Bar Conference yesterday

Mr Justice M M Corbett, speaking during the debate on whether judges should be drawn only from the Bar, said a number of judges had told him that there was increasing difficulty in finding highly skilled advocates prepared to accept judicial appointments in all the provincial divisions of the Supreme Court.

Mr Justice Corbett said he could understand individuals not wanting to be judges because, for instance, they were opposed to the death sentence on principle or had ideological objections to the work.

What he could not accept was advocates who said they were comfortable and earned enough money in private practice

He made a plea to the Bar to reassess this position

The ideal of the efficient and expert administration of justice should transcend these personal objections, he said

Ex-judge slams curbs on freedom

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10/4/88 S/Times

By RUTH GOLEMBO

A FORMER Supreme Court judge and Professor of Law has slammed SA's legal system for "flagrantly" breaching human rights.

Professor Laurie Ackermann, who holds the newly established H F Oppenheimer Chair in Human Rights at the University of Stellenbosch, said it was meaningless to have "a fine legal system" if there was inadequate access to it.

Speaking at the first national Bar Conference in Cape Town this week, he said access to South African courts was inhibited by security legislation, the state of emergency and inadequate legal aid.

"More than 100 000 accused persons, mostly black, are convicted and sentenced to imprisonment every year without having had the benefit of legal assistance."

Prof Ackermann said it was pointless to talk about democracy — even less of so-called Western democracy — without acknowledging that in such democracies the will of the people was the basis of the government's authority.

Hangings 'barbaric' — say legal experts

ARGUS 11/4/88 252

Staff Reporter

THE death penalty which has already claimed a staggering 44 lives this year must go

This was the urgent call last week from some of South Africa's top legal brains who believe capital punishment is "barbaric"

Leading lawyers, advocates and other legal experts want South Africa's almost defunct abolitionist movement, started by leading Natal academic the late Professor Barend van Niekerk more than 20 years ago, to be revived

It appears that some senior advocates feel so strongly about the death penalty that they have refused to accept postings to the Bench to avoid having to impose it

CRISIS PROPORTIONS

Senior advocates who refuse positions on the Bench came in for strong criticism last week by a senior judge of the Appellate Division, Mr Justice M M Corbett.

Addressing the first National Bar Conference in Cape Town, Mr Justice Corbett said the problem of finding suitable members of the Bar to accept positions on the Bench had reached crisis proportions

"I can understand people saying they never want to be a judge for ideological reasons or because they are so strongly opposed to the death sentence.

"But then I hear others saying they rather prefer their senior practice, and they talk of their earnings compared with judges," Mr Justice Corbett said

He appealed to the Bar to reassess its position in this regard

"Whatever the objections may be, if they are not really ideological, I feel that the ideal of an efficient and expert administration of justice should transcend such objections," he added

The call for the scrapping of capital punishment comes in the wake of the huge controversy surrounding the Sharpeville Six, who were due to be hanged in Pretoria on March 18

A last-minute stay of execution saved them from the gallows and an application for the re-opening of the trial will be heard in a week

COLLISION COURSE

Professor John Dugard, head of applied legal studies at the University of the Witwatersrand, believes the death penalty, practised by only a handful of countries, is "the ultimate act of official State violence"

He said South Africa's soaring execution rate — the highest in the world — had become "quiet disgusting" and it was a matter for great concern

Last year, 164 people were hanged — almost one every two days.

But opponents of capital punishment, particularly those using the Sharpeville Six issue to motivate their case, seemed set on a collision course with the Acting Chief Justice, Mr Justice P J Rabie

He lashed out angrily last week at foreign reports relating to the Sharpeville Six which attacked the independence of the country's judiciary

The Acting Chief Justice described as "shocking and disgraceful" allegations that the Six had been "victims of disgraceful chicanery"

"Anyone who knows anything about our judicial system will reject these (allegations) with scorn," he said

STOP
EXECUTION

THERESA
MASHMOLO
HARPEVILLE

Facing the press this week — little Lindiwe Diniso, daughter of Oupa Diniso, one of the Sharpeville Six

14/3/88

Bid to reopen trial of Six

252

AN application to reopen the trial of the Sharpeville Six will be brought in the Transvaal Supreme Court on Friday.

The five men and a woman, on death row at Pretoria's Central prison since last year, were convicted of the killing of a Lekoa town councillor in 1985.

The were given a temporary reprieve by the Supreme Court about 15 hours before they were due to hang on March 18.

The application for a new trial is based on an allegation that a key State witness committed perjury when he implicated two of the accused in the killing.

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Application to reopen Sharpeville Six trial

Lawyers will apply tomorrow to reopen the trial of the Sharpeville Six — five men and a woman temporarily reprieved from the gallows just 15 hours before they were to hang for a political murder.

Their scheduled execution caused an international outcry last month, largely because they were condemned for sharing a "common purpose" with the killers of a township councillor and not for killing him.

The six were granted a month-long stay of execution on March 17 when their lawyer, Mr Prakash Diar, produced evidence that a key prosecution witness might have lied under police pressure.

"I have until Monday to file a formal application to have the trial reopened, but I will make it tomorrow," Mr Diar said.

"The actual hearing on reopening the case will not take place for at least three weeks.

"I expect the six will stay on death row until then, but if the application is granted, they will probably be taken off death row and allowed to come to court," he said.

The stay of execution was granted days after President Botha rejected Western pressure to commute the sentences and decided to let the executions go ahead.

Mr Diar said the application would be heard by Mr Justice J W Human, who convicted the six last year and who granted the stay of execution last month.

Mr Human found in the original trial that the six did not strike the blows which killed councillor Mr Jacob Dlamini in September 1984.

But he ruled that their sympathy with the killers and their presence in the crowd made them equally culpable — Reuter

(252) SM 14/4/88.

THE WEATHER

y and mild, with isolated thundershowers over the
AL — Today: 8 am 14 deg C; yesterday max 23 deg

Varsity suspends 'racist' lecturer

SM 14/4/88

The 49-year-old American lecturer, who claimed that blacks preferred to live under white rule because they would be worse off under black rule, has been suspended from the National University of Lesotho.

The university's registrar, Mr M R Likate, confirmed that Dr Eugene Valberg has been suspended while arrangements for his dismissal were being made.

Dr Valberg was suspended in absentia. He has been missing from the campus since Saturday after a group of angry students surrounded his house and demanded his dismissal.

Dr Valberg caused a furore at the university after claiming in a lengthy article published in the *Sowetan* last Thursday that South Africa's white-controlled government was "infinitely more democratic than any in Black Africa".

"The majority of blacks in South Africa recognise this and do not want to see a black-run government. They recognise that a black government would be much worse in almost all respects," he wrote.

The academic staff at the university issued a statement yesterday describing Dr Valberg as a racist and urged the administration to fire him.

University officials said yesterday that the lecturer had not been seen for three days. Unconfirmed reports said he may have left Lesotho for South Africa.

Woman (65)

Should civil servants sit in judgment?

Mail 14/4/88

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Supreme Court Reporter

REGIONAL magistrates, who are full-time administrators of justice, should not be members of the civil service according to the editor of *Consultus*, a new magazine for advocates.

Mr J P J Coetzer, SC, said the removal of regional courts from the control of government, recommended by the Hoexter Commission into the legal system completed in 1983, was of primary importance to the country.

The process should have been set in motion already, he said.

PRESIDES

"Someone like a regional magistrate ... who, among other things, presides at controversial 'political' trials, ought not to be a member of the civil service for reasons clearly spelt out by the commission," Mr Coetzer said.

"Removing the regional courts from the State's jurisdiction could lead to attorneys and advocates being appointed to their 'benches' and to jurisdiction for civil cases being granted.

"Reduction of legal costs will follow."

● Recommendations of the Hoexter Commission already implemented are the small claims court and a "court rules" board

ANC's Khan jailed

Sowetan 14-20/4/87 252

By AYESHA ISMAIL

A WOMAN was this week sentenced to two years imprisonment for being a member of the banned ANC.

Farieda Khan, 27, of Grassy Park, Cape Town pleaded guilty Eighteen months of the sentence was suspended for five years. She was released on R500 bail pending the outcome of an appeal against sentence

Khan admitted in a statement to the Cape Town Regional Court to being a member of the ANC She said she and her husband Patrick Ricketts went to Botswana in December 1982 to seek employment Both became members of the ANC.

Visited family's home

She had not ceased to be a member of the ANC at the time of her arrest in June 1987 in South Africa She knew the ANC was an unlawful organisation

She said she visited her family's home in Belhar during November 1985 and March 1986 She returned from Botswana in May 1987 and stayed until the time of her arrest

Her mother, Mrs Rugaya Khan, called as a witness for the defence,said her daugter was "soft, non violent and a person who hardly spoke" Asked whether her daughter was fit to stand trial, she said Khan was in poor health and could "have a breakdown" at anytime

Pre-school teacher

Mrs Khan said her daughter bore a child in August 1984 but because of her health, the child was sent to Cape Town and was in her care According to a medical report, Khan suffered from insomnia, anxiety and depression

The court also heard that Khan was one of eight children and a qualified pre-school teacher

Magistrate P M A Louw said Khan's clean record was of significance to the court. It was in her favour that she had not undergone military training

"I will suspend a portion of your sentence bearing in mind that you were held for three months under the Internal Security Act You have shown remorse for what you have done "

Sharpeville 6 case before court again

MGS 14/4/88

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Picture LEON MULLER, The Argus.

RIDING TALL: It's a long way to fall from this bike, but the extra height doesn't seem to bother Eric Kruger. Ashley Charles of Factreton and his friend on their more conventional BMX bikes keep up with Eric.

Staff Reporter

AN APPLICATION to reopen the trial of the "Sharpeville Six" will be made in the Supreme Court, Pretoria tomorrow.

This was announced by Athlone attorney Mr Essa Moosa at a Press conference called by the "Save the Patriots" committee yesterday.

The application follows an urgent interdict on March 17 granting the six a month's stay of execution

"The grounds on which the application was brought was a State witness's admission that the evidence he had given was not true," Mr Moosa said The witness claimed he was assaulted by police who forced him to say what he had said.

"If the court refuses the application the Sharpeville Six will be executed," Mr Moosa said

If the court grants the application the defence will have to lead further evidence and recall the witness, Mr Moosa said The State would also be entitled to call witnesses to refute any new evidence.

The court would then find that if it had had the benefit of the new evidence it would have come to a different conclusion, or to the same conclusion, he said.

If the court found it would have found differently, the Appellate Division would be able to set aside the conviction and sentence

Mr Moosa said that what had emerged from the case was frightening

"Innocent people can be sent to the gallows on the false testimony of witnesses," he said.

"Because of the inherent dangers so classicaly illustrated in this case, the Democratic Lawyers' Organisation calls for the abolition of the death penalty."

D-day for Six!

14-20/4/88 (25) Sowetan

By DIANNE COETZER

DURBAN. — Uncertainty about the fate of their beloved ones is taking its toll on the families of the condemned Sharpeville Six

The tension is intensified by the uncertainty whether the trial will be reopened on April 18, or the death sentence ratified by the judge.

The Six were due to hang on Friday March 18 but were given a last minute stay of execution due to possible perjury committed by a State witness

For 28-year-old Joyce Mokhesi, sister of Francis Don Mokhesi, 31, the lobbying for clemency and judicial appeals for a stay of execution meant she had to take a year off her studies at Oxford University.

As one of the Sharpeville Six, Don Mokhesi was sentenced to death for the "crowd murder" of Lekoa town councillor and deputy mayor J K Dlamini, killed during a rent protest in the Vaal Triangle townships

"When I first heard the news of Francis's sentence, I was numbed with shock. We had prepared ourselves for a sentence of about five years"

She described Francis as an intelligent person who had dropped out of university to become a full-time soccer player for Vaal Professionals.

He has a 27-year-old wife, Ilina and a daughter, Mamolisa, who will soon be 10

"Mamolisa has been greatly affected by Francis' imprisonment," said Joyce

"She and her father were very close, but prison regulations prevent her from seeing him as she is under the age of 16

"This has been very hard on Mamolisa and although she is a bright child, she has not being doing well at school

"Ilina has suffered tremendously throughout the ordeal When the stay of execution was announced, she collapsed I fear that the uncertainty of the next few weeks will become too much for her.

"Financially things are always difficult" Joyce will remain in South Africa until the fate of the Six is decided Then she will join her fiance in London

"All we can do is hope that the hundreds of international and national appeals for clemency will continue to pressure the authorities"

Dorothy Morobe is the fiancee of Reid Malebo Mokoena, 24, of the Sharpeville Six

"One of the things that makes me the saddest is that Reid has not seen his son since he was taken away in 1985," said Dorothy

Their son Thabang is six years old

Uncertainty

The uncertainty of not knowing what was going to happen at the April 18 hearing was placing an incredible strain on her and her son

"It is difficult to get on with the daily things of life This has always been the case but it is even worse now We do not know if the judge is going to allow a complete retrial or if he is going to tell them they are to hang"

"At the moment my father is supporting me and Thabang, and I am also getting help from the Red Cross and the South African Council of Churches"

Relieved

Dorothy said she had seen Reid after the stay of execution had been granted She described him as very relieved

"He has become strong again and he told me that he has hope"

One of the traumatic things she is trying to cope with is making her child understand what happened to his father

The attorney for the Six, Mr Prakash Diar, said he was confident they had enough evidence to enable the judge to reopen the trial

Whether the judge grants a new trial or whether he reaffirms the death sentence, the ordeal for those close to the Sharpeville Six is far from over — Press Trust of S.A. News Agency

Salutes, song and dance led by Winnie and Mandela Football Club players greet Helen

Helen still strong at 83

14-20/4/88

By MONO BADELA

JOHANNESBURG — The government may have banned political rallies but that didn't stop some of the country's leading political activists from turning Helen Joseph's 83rd birthday party into a bumper occasion

The list of those present read like a mini Who's Who of anti-apartheid South Africa

The Congress of South African Trade Unions (Cosatu) was represented by general secretary Jay Naidoo and the Black Sash by Ethel Walt and Joyce Harris

Also attending were Winnie Mandela, Curtis Nkondo, Nadine Gordimer, the US consul general and the Federation of South African Women (Fedsaw) — and her old comrades Francis Baard, Irene Mkwayi, Caroline Motsoaledi and Amina Cachalia

The surprise birthday party was hosted by her close friends Roger and Miranda Harris, who are well-known television reporters

Police were spotted earlier in the morning taking photographs of the entrance to the smallholding outside Johannesburg.

Freedom songs and political slogans greeted the old activist as she arrived for the occasion

Ms Gordimer, patron of the Congress of South African Writers (COSAW), granted Helen Joseph honorary membership of the organisation

Helen Joseph is listed and therefore the speech she made cannot be reported

Winnie Mandela, wife of the jailed ANC leader Nelson Mandela, described Helen as "a leading symbol of our resistance

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Descom's funding charges dropped

By CARMEL RICKARD, Durban

THE state has withdrawn charges against three officials of the Detainees' Support Committee in Pietermaritzburg, after charging them under the Fund Raising Act.

The matter seemed likely to be a test case for the many other organisations under intense scrutiny by the police for alleged contraventions of the Act

Natal University's Colin Gardner, professor of English, was the first accused in the case, along with Gay Spiller and university librarian Christopher Merrett, all alleged to be Descom office bearers.

The case against Spiller — who no longer lives in the city — was withdrawn after two appearances, but the other two appeared in court a third time in connection with the charges

Six charges, relating to a total of about R30 000, were involved in the case which began on March 1 The charges included two transfers of funds from the Johannesburg DPSC and one amount from the Rockerfeller Institute. The money was used to support detainees and their families.

Gardner said the Descom legal team believed the issues at stake in the case were significant and so it was decided to defend the case even though an offer was made to allow a small fine to be paid on admission of guilt

Sharp criticisms of courts' hands-off approach to rights

W/Mail (252) 15-21/4/88

While the chief justice rebukes newspapers for their attacks on the media, another legal conference in the same town delivers sharp criticisms of the highest court in the land GAYE DAVIS reports from Cape Town

IN a University of Cape Town lecture theatre at the weekend, leading legal academics and human rights lawyers were describing a depressing scenario of state lawlessness, the demise of administrative law and an Appellate Division bent on backing the state on security issues.

Meanwhile, in the plusher surroundings of a five-star hotel in the city centre, South Africa's acting chief justice, Judge PJ Rabie, was attacking a *Times* of London editorial which said South Africa's judicial system was "little more than a charade . terror tailored to the purposes of the state" The subject of the editorial was the Sharpeville Six.

"These are shocking and disgraceful statements," Rabie told the first national bar conference, one of the biggest meetings of members of the South African legal profession in years.

"Anyone who knows anything about our legal system will reject them with scorn."

That scorn was not forthcoming at UCT, where the focus was on laws against trade unions and political organisations in a conference organised by the Labour Law Unit.

Rather, there was an atmosphere of mounting concern for a legal system caught in "the grip of a vice-like Catch 22", in the words of UCT law professor Dennis Davis

Appellate Divison decisions on security issues that favoured the state had dampened the euphoria of the early days of the Emergency when, Davis said, it seemed the courts would insist on the clearest legislative authority before sanctioning inroads into civil liberties

Emergency regulations appeared to be seen as ordinary rules of law, rather than exceptional expedients "There is no hint that any additional protection of the subject is needed from an executive armed with ferocious powers," he said.

Such decisions had the effect "of surrendering the administrative terrain to the executive in general and the state president in particular". The conservative influence of the Appeal Court would be increasingly felt as security matters continued to come under the monopoly of the executive

How did rave reviews of judicial performance turn into obituary notices?

"It was suggested that as the entire system of government began to lose legitimacy, so the judiciary became more protective of a legal system threatened by a similar crisis

"The South African legal system might have grown from liberal roots but the record of the present Appellate Division shows all too clearly how the system transplanted into appellate soil has altered its character"

Lawyers should be more responsible to the "coherence" of the legal system — and those who presented arguments undermining the very principles of the legal system should not go uncriticised.

"What can be more damaging to a legal system than an argument that *audi alteram partem* (hear the other side) should be excluded, that a person can be punished without any reasons being given, or that a person should not be entitled to consult his lawyer?" Davis asked.

Criticism of the highest court in the land continued during an address on "state lawlessness" by Geoff Budlender, director of the Johannesburg Legal Resources Centre.

The Appeal Court, he said, had "declared a policy of abstentionism".

An apparent "hands-off" approach to security matters was worrying enough, he said "What is even more worrying is that the range of what is officially regarded as security is growing all the time."

Two Bills illustrated this One was the Promotion of Local Government Affairs Amendment Bill, which aimed to break township rent boycotts by forcing employers to deduct arrears from wages

But what was more disturbing was a provision that a statement by the local authority to the clerk of the court, certifying the amount due, would immediately have all the effect of a civil judgement The court thus played no judicial role, simply becoming a rubber-stamp — against which there was no possibility of appeal

"The real purpose is apparent Lawyers and the judicial process slow the procedure down, enabling defendants to raise defences and contest the amount claimed The rents issue has come to be seen as a security issue — so law and legal process must be excluded They are a luxury which cannot be afforded," he said.

Another example was the Promotion of Orderly Internal Politics Bill, which would ban foreign funding of anti-apartheid organisations

It provided a neat answer to the government's dilemma "good" money should be allowed in, "bad" money not — but how to give legal definition to this distinction? It would simply be drawn by an appointed official, who, with the minister, would have drastic powers of confiscation

A startling result of the Bill was that it made it a criminal offence for anyone to receive any donation from anyone without a fund-raising permit — putting the exchange of birthday gifts in the realm of the illegal.

But he wanted to guard against saying a situation was approaching where lawyers no longer had any constructive role

As legal space diminished, lawyers became ever more important in helping people maximise the remaining space to protect themselves against lawlessness They also had to keep alive the notion of government under law, and of law as an effective restraint on power.

FOR THE RECORD

THE state and defence yesterday closed their cases in the trial of self-confessed African National Congress member Gordon Webster in the Pietermaritzburg Supreme Court.

hanged this morning Their names have not yet been released.

THE policeman who shot dead attorney's

closure of the teachers' colleges in Paarl or Wellington, if so, (a) who were the members of the deputation, (b) on whose behalf did they come to see him and (c) what was their request to him,

(2) whether as a result he was directly or indirectly involved in the decision to close the Paarl Teachers' College;

(3) whether he will make a statement on the matter?

†The STATE PRESIDENT.

(1) to (3)

I was approached in this regard, but I indicated that the matter is an own affair in terms of the Constitution Act and that I could consequently only act on the advice of the Ministers' Council concerned

Bureau for State Security/State Security Council: sponsoring of certain party

*4 Mr D J N MALCOMESS asked the State President

Whether the Bureau for State Security or the State Security Council sponsored a certain party, the name of which has been furnished to the State President's Office for the purpose of his reply, if so, (a) why, (b) when, (c) to what extent and (d) what is the name of this party?

The STATE PRESIDENT

(a), (b), (c) and (d)

I refer the hon member to the replies to questions on the same matter as answered by the then Prime Minister in Parliament on 6 and 9 August 1974

I abide by the answers then supplied and have no reason to deviate from them now

Mr D J N MALCOMESS Mr Speaker, arising out of the reply of the hon the State President, is he aware that during the course of last month, by means of a letter to the *Financial Mail*, Chief Buthelezi made the categorical statement that the Shaka Spear Party in opposition to him was sponsored by the then Bureau for State Security through their employee Francois Fouché?

The STATE PRESIDENT Mr Speaker, I am not aware of the statement, and in any case if the hon member has any information, he may get into touch with me on it and I shall have it investigated That is my reply to him

Mr D J N MALCOMESS I have just given the hon the State President the information

The STATE PRESIDENT I cannot reply in regard to what other people say; I can only provide the hon member with the facts available to me as Head of State

Ministers·

Question standing over from Tuesday, 8 March 1988

Financing of cultural institutions: changes

*31 Mr R M BURROWS asked the Minister of National Education

(1) Whether any changes are to be effected by his Department in respect of the financing of cultural institutions falling under its control, if not, why not, if so, (a) what changes are envisaged in this regard and (b) when will they be effected,

(2) whether any such institutions have made representations to his Department for additional funds for the 1988-89 tax year, if so, what is the nature of these representations;

(3) whether his Department has initiated budget-saving measures in respect of these cultural institutions, if so, what financial restrictions have been applied,

(4) whether he will make a statement on the matter?

The MINISTER OF ECONOMIC AFFAIRS AND TECHNOLOGY (for the Minister of National Education)

Answers are given regarding cultural institutions that are administered in terms of the Cultural Institutions Act (Act 29 of 1969)

(1) Yes.

(a) Refinement of the existing subsidy formulae.

(b) Negotiations are at present in progress with a view to implementing these changes as soon as possible

(2) Yes Additional funds have been requested in respect of current expenditure and the acquisition of fixed assets

(3) Yes It is intended not to fund the approved formula in full Nor has it been possible to do so for some years

(4) No.

New Questions

Males/females awaiting execution

*1. Mrs H SUZMAN asked the Minister of Justice

How many (a) males and (b) females of each race group were awaiting execution in the Republic as at the latest specified date for which information is available?

†The MINISTER OF JUSTICE.

On 14 March 1988 six Black men and one Black woman were awaiting execution while the cases of the rest were still in various stages of the post sentence process, the largest group being involved in appeals

†Mr F J LE ROUX Mr Speaker, arising out of the hon the Minister's reply, I would like to know how many people have thus far been pardoned this year

†The MINISTER. Mr Speaker, the answer is five persons

Offences against security of State: life sentences

*2 Mrs H SUZMAN asked the Minister of Justice.

(a) How many persons are at present serving life sentences for offences against the security of the State and (b) in respect of what date is this information furnished?

†The MINISTER OF JUSTICE

(a) 21

(b) 31 December 1987

Persons under 18 years awaiting trial

*3 Mrs H SUZMAN asked the Minister of Justice

How many persons under the age of 18 years were held awaiting trial in prisons on 31 December 1987?

The MINISTER OF JUSTICE

582

[Remainder of reply laid upon the Table with leave of House]

Section 29 of the Prisons Act, 1959 (Act 8 of 1959) stipulates *inter alia* that a person under the age of eighteen years who is accused of having committed an offence shall, before his conviction, not be detained in a prison unless his detention is necessary and no suitable place of detention mentioned in the Child Care Act is available for his detention In deciding as to the suitability of the place of detention, the nature of the offence with which a person is charged is taken into account, as well as age, sex, character, etc

A juvenile who is detained in terms of this section shall not be permitted to associate with a person over the age of twenty-one years who is in custody, provided that he may be permitted to associate with such a person in custody who has been charged jointly with him, if the head of the prison is of the opinion that such association will not be detrimental to him An awaiting trial woman under the age of eighteen years is placed in the care of a woman

All persons awaiting trial or sentence are segregated from sentenced and other categories of unsentenced prisoners as far as possible and association between prisoners awaiting trial or sentence are restricted to a minimum in order to prevent collusion or conspiracy to defeat the ends of justice

The honourable member is also referred to the press statements of Mr F W De Klerk, Minister of National Education and Mr S J de Beer, Deputy-Minister of Education of 15 August 1987 and 14 March 1988 respectively

Release of Mr Govan Mbeki from jail: international press conference

*4 Mr C J DERBY-LEWIS asked the Deputy Minister of Information

Whether the Bureau for Information arranged an international press conference for Mr Govan Mbeki upon his release from jail, if so, (a) at what total cost to the State and (b) on whose authority?

The DEPUTY MINISTER OF INFORMATION

Yes, to ensure orderly coverage of this sensitive and newsworthy event

(a) No special costs were incurred

(b) 29 February 1988

(2) No

(a) and (b) Fall away

(3) No, the town has not yet been registered

Death sentences of six persons from Sharpeville: representations for commutation

*28 Mr P G SOAL asked the Minister of Justice

(1) Whether any representations have been received for the commutation of the death sentences of six persons from Sharpeville, whose names have been furnished to the Minister's Department for the purpose of his reply, if so, (a) from whom, (b) with what result and (c) what are the names of these persons,

(2) whether any decision has been taken in this regard, if so, what is the decision, if not, why not,

(3) whether he will make a statement on the matter?

†The MINISTER OF JUSTICE

(1) (a), (b) and (c) Yes. Representations have been received from various persons and organizations for the commutation of the death sentence of the persons whose names have been furnished by the hon member It is not feasible to furnish the names of all the persons who made representations in a reply of this nature.

(2) Yes No grounds could be found to commute the sentences imposed by the court and confirmed by the Appellate Division

(3) No A statement is not necessary

Emergency regulations: orders restricting access to KTC

*29 Mr J J WALSH asked the Minister of Law and Order

(1) Whether any orders have been issued in terms of the emergency regulations in connection with restricted access to the KTC squatter camp, if so, (a) by whom, (b) in terms of what regulations, (c) why and (d) what is the purport of these orders,

(2) whether he has received any representations for the (a) repeal and (b) amendment of these orders, if so, (i) from whom and (ii) what was (aa) the nature of the representations and (bb) his response thereto,

(3) whteher he will make a statement on the matter?

†The MINISTER OF LAW AND ORDER

(1) Yes

(a) The Divisional Commissioner, Western Province

(b) In terms of regulation 7 of the Regulations promulgated in Proclamation R96 of 11 June 1987 by virtue of the Public Safety Act, 1953 (Act 3 of 1953)

(c) Because it is in the interest of the residents of the area and to maintain law and order

(d) I refer the hon member to Government Notice 411 in *Government Gazette* 11168 dated 1 March 1988

(2) (a) No

(i) and (ii) Fall away

(b) No, but the Divisional Commissioner, Western Province Division received representations.

(i) The Legal Resources Centre and a small group of residents from the KTC squatter camp

(ii) (aa) That similar orders are not in force in respect of other residential areas

(bb) A delegation was interviewed on 7 March 1988. Their representations were given a hearing and consdiered, but turned down It was pointed out to them that the situation in the KTC squatter camp and the surrounding areas changes continually Therefore, measures such as these are reconsidered on a daily basis and adjusted should circumstances so require.

(3) Yes

Measures of this nature are always introduced with a view to

— facilitating the maintenance of law and order,

— ensuring the safety of the residents of an area and

— promoting the termination of the state of emergency

In this instance, measures were implemented in the interests of the safety and at the request of the majority of the residents of the KTC squatter camp Since then the situation in this residential area has to a large extent stabilized A visible tranquillity, with which we are pleased, prevails

However, it is noteworthy that a very small group of radical residents are not in favour of stability and peace, likewise, the organisations and/or the individuals who represent the interests of these residents with loud acclamation Protective measures such as these are labelled as oppressive and unnecessary

Therefore I wish to emphasise today that these radicals and their representatives do not act or remonstrate on behalf of the greater majority of the community On the contrary, their actions promote only their own selfish political and personal interests

Own Affairs

Teachers: election agents for political candidates

*1 Mr A GERBER asked the Minister of Education and Culture †

(1) Whether it is permissible in the Transvaal, Cape, Free State and Natal Provincial Education Departments, respectively, for teachers to (a) act as election agents for candidates of political parties and (b) distribute party-political information during school hours on school premises, if so, (i) with effect from what date and (ii) subject to what conditions,

(2) whether he will make a statement on the matter?

The MINISTER OF EDUCATION AND CULTURE.

(1) (a) Although this is not prohibited by ordinance I am not in favour of such a practice,

(b) no,

(i) and (ii) fall away,

(2) no

Rationalization of teachers' colleges: recommendations by Cape Education Department

*2. Mr A GERBER asked the Minister of Education and Culture †

Whether the Cape Education Department was requested by his Department to make recommendations in connection with the rationalization of teachers' colleges in the Cape Province, if not, why not, if so, what (a) recommendations in connection with the teachers' colleges at (i) Paarl and (ii) Wellington and (b) other recommendations were made?

†The MINISTER OF EDUCATION AND CULTURE

(a) and (b)

The Cape Education Department is part of my Department and as such responsible for administering the policy of the Department of Education and Culture in the Cape The rationalization of institutions in the Cape is therefore undertaken on the basis of inputs received from the Cape Education Department as well as on other related considerations It is not normal practice to make known the recommendations that are considered in the process of decision-making.

Levies by own affairs departments for services: investigation

*3 Mr R M BURROWS asked the Minister of the Budget and Welfare:

(1) Whether a committee is investigating the introduction of levies to be imposed by own affairs departments for the use of certain services, if so, (a) under which Department does this committee fall, (b) (i) on what dates has this committee met and (ii) who are the members thereof and (c) what services are involved,

(2) whether this committee has made any recommendations on the introduction of such levies, if not, why not, if so, what levies have been (a) recommended and (b) introduced,

HOMICIDAL JUSTICE

The Star 16/4/88

An 'overpowering case for abolition of hanging'

Counsel for the Sharpeville Six yesterday filed an application for the reopening of the trial in the Pretoria Supreme Court. The six were sentenced to be hanged for the September 1984 murder of Lekoa deputy mayor Mr Kuzwayo Dhlamini, but won a stay of execution on March 17. This, and other cases, have once again stirred up questions surrounding the need for the death penalty in South Africa. ELLISON KAHN, Professor of Law at the University of the Witwatersrand, argues the case for its abolition.

'These are the times that try men's souls," wrote Tom Paine in England in 1794 of the "American crisis". Most assuredly the same may be said of the South Africa of today. Ours was for long a gravely homicidal society; today it is shockingly so. It is, therefore, encouraging to those who condemn the death penalty that recent events have nevertheless caused many publicly to question its continued existence. Why and for what crimes must or can it be imposed?

The purposes of punishment for committing a crime are fivefold. retribution (including expiation, atonement, revenge and denunciation); prevention of further criminal acts by the offender, for example by imprisoning him, deterring the offender; deterring the community, and reforming the offender The courts should be fair and consistent in their attempts to achieve these ends.

To be sure, hanging a criminal will give expression to most of these purposes, though certainly not that of reformation But this sentiment would fall from the lips of a cynic

Before the legislature intervened in 1917, the death sentence could be imposed only for murder, rape and treason. With rape and treason it was virtually unknown. Whether the court had to impose it for murder was not clear; but in 1917 Parliament stated that the sentence was compulsory except where the offender was a woman convicted of the murder of her newly-born child or was under 16 (raised to 18 in 1958).

What happened until 1935 was that three out of every four persons condemned to be hanged were reprieved, and that in the days when the jury system was in full operation when often a verdict of culpable homicide was returned to avoid the inevitable and horrifying sentence following a finding of murder

In 1935, Parliament wisely rejected a proposal that murder be divided into degrees, some carrying the death penalty, others not Instead, it gave the court the power not to sentence the offender to death if in its opinion there were extenuating circumstances

This reform was welcomed by the courts and has been commented on favourably abroad. But the imposition of captial punishment, as final a judgment as fallible man can make upon man, remained a thing of uncertainty; hanging could still, in the words of a Scottish judge over a century ago, depend on a factor as fine as a hair — and as deep as a grave The court was vested with a discretion in finding extenuating circumstances and the presiding judge in accepting it Much depends on the personality of the judge. If he refuses to accept the finding, the Appellate Division of the Supreme Court will not interfere unless it concludes that he could not reasonably have reached this decision. a very limited room for intervention

The same principle applies to the crimes which carry a purely discretionary death penalty

Very recently, in State v S, the Appelate Division held that in the circumstances of the case the trial judge had acted reasonably in imposing capital punishment for rape, though a long prison sentence would also have been a reasonable punishment It was said to be a borderline case.

You may think that the result of the decision is sad, if not bewildering; but it is the result of the law as it now stands. You will be justified in hoping that the government decides to grant a reprieve

Since 1958, Parliament has added to the list of crimes for which the criminal may be sent to the scaffold Today they are kidnapping; child-stealing; robbery or attempted robbery, and housebreaking or attempted housebreaking with intent to commit an offence, in each instance where the court finds there are aggravating circumstances (as defined in the Criminal Procedure Act 1977); and terrorism (as defined in the Internal Security Act 1982).

Since the creation of the Union of South Africa in 1910 to the end of 1987 a total of 4 110 persons have been executed. Last year 164 were executed — 102 black men, 53 coloured men and nine white men

Of the blacks, 86 had been executed for murder, two for rape and three for robbery with aggravating circumstances

As far as I know, all the whites were executed for murder

There were 20 reprieves The proportion of reprieves was less than in the previous nine years

When one looks at the statistics over the years one sees that about 90 percent of executions have been for murder. It is the only crime that carries the compulsory death sentence (and then only in certan circumstances) If capital punishment is to exist, there appears to be no rational reason for depriving the presiding judge of a general discretion in a case of murder The only feature of this crime that distinguishes it from the other capital crimes is that the victim has died "A life for a life" is an illogical cry And how did it support the execution in 1957 of 22 for the murder of five and in 1967 of nine for the murder of one? Jeremy Bentham pointed out 150 years ago that we do not maim A because he maimed B or burn down C's house because he set fire to D's house

In any event, sometimes there is only a tenuous link between the act of the accused found guilty of murder and the death of the victim In the "Sharpeville Six" case (State v Sefatsa and others) decided last December, a five-member bench of the Appellate Division, in a carefully reasoned judgment, ruled as follows Where a common purpose is proved, the act of one participant in causing the death is imputed to the other participants, provided the intent to kill was present, a casual connection between the acts of every party to the common purpose and the death of the deceased need not be proved to sustain a conviction of each of the participants of murder The court stressed that it was not making new law, but was simply clarifying what had in reality been held previously by the Appellate Division You may think that this rule is a hard one, but I do not believe you may say that our highest court has suddenly become very stern

In the West, capital punishment exists in few countries In Britain, attempts to reintroduce it have failed True, the United States Supreme Court has now held that it is not unconstitutional as a cruel and unusual punishment, but it has imposed rigorous conditions on the rules of law that allow for it. Twenty years ago South Africa contributed about 40 percent of those who reportedly were executed in the world Very likely the percentage is much lower today; but the actual number who walk to the gallows is distressingly high

Over the years a number of our judges publicly voiced their opposition to the death penalty, among them Mr Justice Krause, Mr Justice Maritz, Mr Justice Cloete, Mr Justice Leon and Mr Justice Maisels There have also been avowed retentionists, among them Mr Justice Blackwell, Mr Justice O V Sampson and Mr Justice J W van Zijl.

Why have capital punishment? One appreciates that many members of the public may be so revolted by a guesome murder as to desire that the life of the murderer be ended — the most emphatic communal denuciation of the deed But anger does not justify our vacarious killing of another by act of the hangman" How does the taking of life in the name of the law engender respect in the citizen for human life? Surely we should not deny in this way the infinite value of the human personality

The State, it may with some justification be argued, must satisfy a desire of relations, friends and others to be avenged, must mark the community's sense of revulsion at the wickedness of the crime In this way the moral values of society may be vindicated

So far as these objectives are legitimate, they can be satisfied by a lengthy term of imprisonment — even life. If in some way punishment is to achieve atonement and express public indignation, it need not be proportionate to the crime Abhorrence of murder has not to be shown by judicial homicide

The only feasible rational argument in favour of executions is general deterrence There is no convincing evidence, however, from any study anywhere that their abolition has altered the incidence of murder; it has not accelerated a trend for it to increase in a country or to diminish, or move it from a stationary state

The incidence of homicide is fundamentally a reflection of complex social factors Of course, with a particular individual, the prospect of a hanging — remote though it is — may be a detterrent. With others, however, it may act as a stimulant, those, as Dickens wrote in a letter in 1845, for whom execution as "a horrid fascination impelling them onward to the acquisition of a frightful notoriety"

Apart from its inherent dependence on chance, an evil in itself, capital punishment is condemned by abolitionists because of the possibility of a judicial error that can never be rectified Fallible human beings should not inflict a punishment that is irreparable

There are a number of recorded cases where an innocent person has been sent to the scaffold

The Rev Dr H P Junod, who ministered to 2 000 blacks in the death cells and accompanied 800 to the gallows, was convinced that mistakes had been made Think of Timothy Evans, hanged for a crime committed by the mass sex murderer Christie There are instances in this country where a black man, sentenced to death, was saved at the last moment on the discovery of evidence showing that his conviction was wrong

The case for the abolition of the death sentence in peace time is overpowering One can only hope that those who have the vote will one day be convinced of it

Sharpeville 6 'shouldn't have been convicted'

(252) 18/4/88 Star

LONDON — Lord Scarman, one of Britain's foremost judges, said in a television interview to be broadcast tonight that South Africa's so-called "Sharpeville Six" should not have been convicted of murder.

The 76-year-old judge, who retired in 1986 after eight years as a law lord, appealed to President Botha to reprieve the only woman among six black South Africans sentenced to death for complicity in a mob murder.

"I don't understand how the (South African) Court of Appeal could have blandly said that all these accused had the intention to kill," Lord Scarman told Independent Television's "World In Action" programme.

Lord Scarman . . Would dismiss the case.

Transcripts of tonight's programme for television, which included a dramatised reconstruction of the 1985 trial, were issued for release early today.

"There was no evidence on which a safe and satisfactory conviction could be obtained because murder is a very specific offence," Lord Scarman said.

"It requires conduct which played some part in the enterprise of killing and the intention to be a part in the enterprise of killing," he said.

The six were sentenced to be hanged for the murder of a black deputy mayor during a 1984 riot in Sharpeville. On March 17 they won a month-long stay of execution when a judge ruled there was evidence that a key prosecution witness had perjured himself during the trial.

LAST DAY FOR EVIDENCE

Mr Justice W Human, who sentenced the six to death three years ago, has given defence lawyers until today to file evidence to justify a re-trial.

No evidence has been given that any of the six joined in the killing of the deputy mayor, whom militants accused of collaborating with the authorities. They were convicted for having a "common purpose" with the unidentified killers.

Lord Scarman examined the original court records used in the case of one of the six, Theresa Ramashamola.

"On the evidence that I have seen I would withdraw the case from a jury and direct an acquittal against Theresa Ramashamola," Lord Scarman said. "Mr Botha should at the very least exercise the power of reprieve."

"I think that if Theresa had been convicted in an English court on the basis of such evidence as I have read, the Court of Appeal would have quashed the conviction on the basis that it was unsafe and unsatisfactory." — Associated Press.

232 STAR 19/4/88

Retrial of 6: documents given to AG

Defence documents applying for a retrial of the Sharpeville six have been handed to the Attorney-General for consideration, the Registrar of the Pretoria Supreme Court, Mr P J van Zyl, said yesterday.

Mr van Zyl said the application for a retrial of the six was being studied by the Attorney-General who would make a decision before April 27.

The five men and a woman were due to hang last month for the murder of Lekoa deputy mayor, Mr Kuzwayo Dhlamini, on September 3 1984 during a rent increase revolt

The six were granted a month-long stay of execution on March 17

This followed after their lawyer, Mr Prakash Diar, produced evidence that a key prosecution witness might have lied under police pressure

The application by defence was handed to Mr Acting Justice W J Human on Friday.

● About 5 000 people marched through the centre of Paris last night calling on South Africa to free the Sharpeville six and about 1 000 demonstrators gathered outside the South African Embassy, organisers said

The demonstration was organised by the French Communist Party and anti-apartheid organisations — Sapa-Reuter.

AG looks at appeal to re-try 'Six'

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B/Day 19/4/88

PRETORIA — Defence documents applying for a re-trial of the "Sharpeville Six" have been handed to the Attorney-General for consideration, Registrar of the Pretoria Supreme Court P J van Zyl said yesterday.

He said the application for a retrial of the six — five men and a woman who were due to hang yesterday for the murder of Lekoa deputy mayor Kuzwayo Dhlamini in September 1984 during a rent increase revolt — was being studied by the Attorney-General who would come to a decision before April 27

The six were granted a month-long stay of execution on March 17 when their lawyer, Prakash Diar, produced evidence that a key prosecution witness might have lied under police pressure.

The 11th hour application by defence for retrial was handed to Mr Acting Justice W J Human on Friday. — Sapa.

Chairman calls for new constitution

De Beers in strong push for reform

B/day 19/4/88

LIZ ROUSE

DE BEERS' chairman Julian Ogilvie Thompson has called for urgent negotiation and implementation of a SA constitution which will provide equal opportunity and political participation for all, protected by an entrenched Bill of Rights.

He says, in his annual review, De Beers strongly supports rapid reform towards equal opportunity and dignity for all South Africans, based on full participation in the political process. "Regrettably, I cannot report any notable progress in this direction.

"The overall effect of the May 1987 election for the white chamber of Parliament was to make government much more concerned about pressure from its right — the Conservative Party having replaced the Progressives as the official opposition — than from its left and, in consequence, the reform process came almost to a halt.

"The Group Areas Act (GAA), one of the last great pillars of apartheid, is to be amended, not scrapped, and it remains to be seen whether the changes to be tabled will be bold enough to relieve the pressure on the few gray residential areas that have been tolerated

"SA continues to be governed under a state of emergency and, recently, far-reaching new restrictions were imposed upon a number of political and semi-political organisations."

Ogilvie Thompson says it is not easy to discern the reason for what was done If it is indeed true SA can only be governed by such methods as these, then the need for constitutional reform is greater than ever.

He says the GAA continues to impede the group's stated policy to treat all its employees equally.

"The governing principle is that of merit-based manning, namely the advancement wherever possible of people of all races, on merit.

"In Namibia, where raciallly discriminatory legislation has been removed from the statute book, much progress has been made.

"In SA, the group's ability to treat all its employees equally continues to be impeded by the GAA, as well as by the heritage of different standards of education available to the various race groups."

Some 1 652 employees receive assistance through the De Beers homeownership scheme.

Overdrafts must stop — Schwarz

19/4/88 (56) B/Day

GERALD REILLY

PRETORIA — The use of bank overdrafts granted to TBVC countries on the strength of SA government guarantees should be stopped, PFP finance spokesman Harry Schwarz said yesterday.

He was reacting to a statement by Foreign Minister Pik Botha that the SA government had guaranteed TBVC overdrafts totalling R1,08bn in the past two years.

Schwarz said the use of overdraft facilities by state institutions to finance budgets was unhealthy and totally unsatisfactory. It was inflationary and against all accepted budget principles.

"I cannot think where the TVBC countries will get their money to repay the overdrafts other than from SA. Interest alone at current prime rates on the R1,08bn would amount to at least R125m a year."

Aside from guaranteed overdraft facilities SA was giving the countries substantial grants annually, he said.

Alarm in Durban over rabid cats

DURBAN — Authorities have "pressed the panic buttons" following the shock discovery of rabies in cats for the first time in Durban.

To combat possible spread of the disease, which would probably be much harder to control in cats than in other domestic animals, they have immediately begun top-level planning of a massive immunisation programme.

It is due to be launched before the end of the month in Chatsworth, where deputy Medical Officer of Health Dr Robert Brown confirmed yesterday that two rabid cats had been discovered in less than a month.

Authorities have also appealed to petowners to have all their household animals innoculated.

The latest rabies case was discovered this week when a stray cat was caught in the Bayview area of Chatsworth, south of Durban. It was taken to the SPCA and was put down. Its brain was sent away for rabies testing and proved to be the second positive case in under a month. — Sapa.

AG looks at appeal to re-try 'Six'

(352) B/Day 19/4/88

PRETORIA — Defence documents applying for a re-trial of the "Sharpeville Six" have been handed to the Attorney-General for consideration, Registrar of the Pretoria Supreme Court P J van Zyl said yesterday.

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The six were granted a month-long stay of exection on March 17 when their lawyer, Prakash Diar, produced evidence that a key prosecution witness might have lied under police pressure.

The 11th hour application by defence for retrial was handed to Mr Acting Justice W J Human on Friday. — Sapa.

Cape Times 21/4/88

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Top cop sorry for anti-LRC statement

BRIGADIER Ronnie van der Westhuizen, former Western Cape Divisional Commissioner of Police, has apologized for statements he made last year about the Legal Resources Centre.

In a statement received by the Cape Times yesterday, he said he regretted an error he had made, and added that he had not intended to question the integrity or motives of the LRC.

On August 7 last year, Brigadier Van der Westhuizen was trying to defuse a protest by some 4 000 women at the Nyanga offices of the Office for Community Services.

Court battles

He told a Cape Times journalist on the scene that Mr Prince Gobingca — a former vigilante from Crossroads who had had a fall-out with Mr Johnson Ngxobongwana — had "run to the LRC ... to get an interdict".

People were angry that the money they had for housing had to be used in court battles, he added, according to the report.

In his subsequent statement, the brigadier said it had been pointed out to him that the LRC had never acted on behalf of Mr Gobingca.

"I accept this to be the position and regret the error," he said.

He said it had not been his intention to question the integrity or motives of the LRC.

Cape Times 26/4/88

Sharpeville 6 trial: Reopening opposed

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PRETORIA. — The attorney-general of the Transvaal yesterday filed notices of intention to oppose the application of the "Sharpeville Six" to have their trial reopened.

The second respondent, the Minister of Justice, is however not opposing the application and has decided to abide by the court's decision.

This follows an application by the five men and a woman for the reopening of their case after their attorney, Mr Prakash Diar, found new evidence which may influence their positions.

The six on death row applied successfully a month ago for a stay of their executions on the grounds that a state witness had lied to the court.

In papers filed with the Supreme Court, Pretoria, a week ago, the witness's attorney, Mr M S Bham, said he had consulted with his client in September 1985 after his client was subpoened to give evidence and confirmed that the evidence was false and that he had not seen either the first or second applicant at the scene of the crime.

"He also confirmed to me that the police had mentioned the names of the first and second applicants to him and instructed him to say in his evidence that they were at the scene of the crime." — Sapa

Whether an estimate has been made of the cost to the South African Defence Force of the administration, salaries, commissariat and other specified services required to maintain the system of national service as instituted by sections 22 and 44 of the Defence Act, No 44 of 1957, if not, why not, if so, (a) what is the estimated total amount involved and (b) in respect of what financial year was it made?

The MINISTER OF DEFENCE

Yes

(a) R705 million per annum for salaries, training, accommodation, ammunition, internal charges, clothing, rations, transport, medical and administration

(b) 1987/88

New Questions

Immigrations after graduation· reclaiming of university subsidies

*1 Mr C J DERBY-LEWIS asked the Minister of National Education

(1) Whether he is giving consideration to the introduction of legislation which will enable the State to reclaim amounts paid in terms of university subsidies from graduates who leave the country immediately or soon after their graduation, if so, when is it anticipated that such legislation will be introduced, if not, why not,

(2) whether he will make a statement on the matter?

†The MINISTER OF NATIONAL EDUCATION

(1) No The extent and nature of this problem does not warrant the introduction of such legislation The country has benefited considerably over the past few years and still benefits by the immigration of trained manpower which did not cost the taxpayer anything The introduction of measures related to the subsidising of universities, in order to inhibit emigration, will in all probability evoke a very sharp reaction from other countries to the disadvantage of South Africa

(2) No

*2 Mr C J DERBY-LEWIS — Defence [Withdrawn]

Manning of police stations· international standards

*3 Mr C J DERBY-LEWIS asked the Minister of Law and Order

(a) What are the international standards regarding the manning of police stations in (i) urban and (ii) rural areas and (b) how do our police stations compare in this regard?

The MINISTER OF LAW AND ORDER

(a) and (b)

As far as could be ascertained from available research, international standards regarding the manning of police stations in urban and rural areas do not exist Therefore a comparison cannot be made with police stations in South Africa.

Courtroom of Wynberg magistrate's court· presence of SAP

*4 Mr J VAN ECK asked the Minister of Law and Order †

(1) Whether any members of the South African Police were present in a courtroom of the Wynberg magistrate's court on 15 March 1988 at the time of the appearance of a number of detainees in terms of section 29 of the Internal Security Act, No 74 of 1982, if so, (a) why and (b) how many,

(2) whether any of these members were dressed in plain clothes, if so, why,

(3) whether any of the members in plain clothes took their seats in that part of the court which is usually made available to members of the public, if so, (a) why and (b) how many?

†The MINISTER OF LAW AND ORDER

(1) to (3)

In this question the hon member for Claremont refers to certain court proceedings at the Wynberg magistrate's court on 15 March 1988 It is astonishing that he abuses this forum, Parliament in view of the fact that he himself attended these proceedings During these court proceedings 11 alleged terrorists appeared on serious charges as a result of large-scale acts of terror, including various explosions, which occurred in the Western Cape

It is the statutory responsibility of the South African Police and also an internationally accepted practice that the police of a country must at all times ensure the safety of court officials, members of the public and the accused in a court All the more when persons are tried on charges of serious crime and people flock together at that court, as in this instance

During such police actions use is made of the services of the Uniform Branch, Security Branch and Criminal Investigation Branch Members of the Uniform Branch perform duty in uniform, while members of the Security Branch and Criminal Investigation Branch perform duty in plain clothes Surely the hon member is aware of these facts

The presence of the South African Police at these court proceedings was in accordance with their statutory responsibility and requires no further explanation

15 March 1988· shortage of seating in courtroom of Wynberg magistrate's court

*5 Mr J VAN ECK asked the Minister of Justice

Whether, with reference to the appearance in the Wynberg magistrate s court of a number of detainees in terms of section 29 of the Internal Security Act No 74 of 1982, on 15 March 1988, there was a shortage of seating in the courtroom concerned if so (a) to what factors is this shortage ascribed and (b) how many (i) relatives of the detainees and (ii) members of the public are estimated to have obtained seats?

The MINISTER FOR ADMINISTRATION AND PRIVATISATION (for the Minister of Justice)

I refer the hon member to my letter dated 25 March 1988 in which I informed him about the matter

[*Remainder of reply laid upon the Table with leave of House*]

26-08-1988

Mnr J Van Eck, LP
Volksraad
Posbus 15
KAAPSTAD
8007

Geagte meneer Van Eck

VERHOOR TE WYNBERG OP 15 MAART 1988

Dankie vir u brief van 15 Maart 1988

Die Landdros van Wynberg is gevra om op die aangeleentheid in te gaan Volgens 'n telefoniese verslag van hom ontvang, blyk dit dat die Hooggeregshof kort vantevore in Wynberg gesit het Wanneer dit gebeur, verskuif die Streekhof en word die hofnommers verander Ongelukkig het daar in die proses dieselfde nommers op twee van die howe se deure verskyn Sommige lede van die publiek wat die verrigtinge in die saak van die 11 beskuldigdes wou volg, het blykbaar as gevolg hiervan aanvanklik in die verkeerde hof beland Die probleem is betyds agtergekom en die publiek wat in die verkeerde hof was, is toe ingelig oor waar die saak sou aankom

In daardie stadium was die korrekte hof al amper vol en was daar nie meer veel sitplek beskikbaar nie Na verneem word was van die aanwesiges wel polisiebeamptes waarvan sommiges n belang by die saak gehad en ander teenwoordig was om toe te sien dat die verrigtinge ordelik verloop Die hofbeamptes het uit hulle pad gegaan om plek te laat maak vir ten minste n aantal van die familielede van elke beskuldigde

U was op die toneel en sal daarom eerstehandse kennis hê van die gedrag van die skare en die beskuldigdes in en om die hofsaal Volgens koerantberigte het dit erg toegegaan Die polisie het die taak om te sorg dat die howe in veiligheid kan funksioneer en dat die verloop van die hofproses nie fisies ontwrig word nie Dit val tot n groot mate ook op hulle weg om uiteindelik toe te sien dat hofbevele uitgevoer word Hulle rol in die instandhouding van ons howe en dus aan 'n beskaafde beregtingsisteem word gereeld oor die hoof gesien Dit is hulle wat sterf as die malmensbomme om ons howe ontplof

Ek is nie bereid om die gemene motiewe wat u aan die aanwesige polisiebeamptes in u brief toedig te onderskryf nie

Die uwe

H J COETSEE, LP

MINISTER VAN JUSTISIE

Umdloti/Richards Bay, new road

*6 Mr W J HEINE asked the Minister of Transport Affairs ?

DEROUS ACT!

Flashback. Relatives of the Sharpeville Six at a press conference call for clemency

Date fixed for hearing of 'Six'

From MONO BADELA

JOHANNESBURG — An application to obtain a retrial for the Sharpeville Six will be heard in the Pretoria Suprme Court on May 18

The Attorney-General of the Transvaal this week gave notice that the State would oppose the application of the six to have their trial re-opened.

The second respondent, the Minister of Justice, indicated he would oppose the application and would abide by the court's decision.

The application will be based on a statement by a State witness at the original trial that he had given perjured evidence which directly implicated two of the accused in the killing of a Lekoa town councillor in 1984

A stay of execution was granted about a month ago, 18 hours before they were scheduled to be executed at pretoria's Central Prison.

Mr Prakash Diar, legal representative of the "Sharpeville Six", said this week he "remained hopeful that they will not be hanged"

SA judges in a dilemma

WHAT one eminent judge described recently as a "crisis in the administration of justice" has been brewing in the South African legal system for a long time

Mr Justice M M Corbett, an Appeal Court judge, made his observation during the national Bar conference in Cape Town recently, saying there was increasing difficulty in finding highly skilled advocates prepared to accept appointments as judges

While many observers agree with Mr Justice Corbett, it is also pointed out that the problem's causes are deep-seated and relate to the South African situation and the role of law in that situation

Symbolic of the dilemma was the resignation last year of two judges, Mr Justice Leon and Mr Justice Ackermann

Resignations from the Bench are almost unprecedented, tradition being that judges serve until retirement The last time it happened in South Africa was in 1979 when Mr Justice King and Mr Justice Mostert resigned

The question is Why would senior counsel be unwilling to accept elevation to the Bench? Surely, with its status, awesome responsibilities of life and death and the power to make law, the recognition and appointment would be the pinnacle of any legal person's career

Trenchant criticism of the situation was made in 1980 to the Hoexter Commission by Mr Justice Didcott, of the Natal Provincial Division Much of what he said then is still relevant or has been exacerbated by the growing crisis in South Africa

The letter of the law, he said, was that the "judicial authority of the Republic" belonged to the Supreme Court as a whole, not to the Minister of Justice, nor to the Department of Justice

"Such, however, is the letter of the law Its spirit struggles to survive the long siege the Supreme Court has undergone"

A major example of this were statutes which had robbed the Supreme Court of its "inherent jurisdiction and traditional functions" or had carved deeply into its judicial function

"As we all know, their medley of effects range from mandatory sentences, depriving the Supreme Court of its discretion to impose punishments that fit the circumstances, to the capture of its work by special tribunals, from the immunity to judicial review gained by performers of administrative acts to indemnities protecting officials who have behaved unlawfully and embargoes on interdicts against those about to do so

"The worst of all . has been the Supreme Court's loss in large areas of that ancient and trusted weapon for the defence of personal liberty, the writ of *habeas corpus*

"The growth of administrative law at the expense of judicial power is a phenomenon by no means peculiar to South Africa, but few communities . have gone as far as we

"Few, and none with whom comparison would be welcome, have done so with less apparent reluctance or greater damage to the fabric of law," said Mr Justice Didcott.

This process has continued and many in the legal profession fear that administrative law will continue to expand

The director of the Legal Resources Centre in Johannesburg, Mr Geoff Budlender, made that point to a recent conference on laws against trade unions and political organisations

He pointed to a process in which the State's perceptions of its security needs was expanding, and so were the areas of life which the Government saw as security related and therefore had to be removed from the purview of the courts

Mr Justice Didcott reserved his sharpest criticism for the way people were elevated to the Supreme Court Bench

"There can hardly be a lawyer in the land who is unaware of it . yet, for fear no doubt of comtempt of court, it is never discussed openly I refer to appointments from the Bar to the Supreme Court Bench, and promotions within it, on grounds other than merit

"I do not suggest that we have had no appointments on merit ... we have obviously had many But we have also had many, far too many, of the other sort .

"Things have got so bad that some advocates and attorneys who claim political influence, and visibly relish the role of wheeler-dealers, boast openly of their successes in securing the appointment or promotion of so-and-so, and spoiling the prospects of what's-his-name ..."

Mr Justice Corbett was referring to advocates not accepting appointments Mr Justice Didcott, while talking about those who were never approached, also foresaw the present problem

"Consider . the long list of leading counsel who have not even reached the Bench Confine one's attention, for convenience, to the Johannesburg Bar, the largest in the country by far, and one which has always counted amongst its members the ablest advocates of their time

"Ponder on the relatively few Transvaal judges drawn from their ranks in the past three decades Imagine the gain to that court, its reinforcement, had it included a Rosenberg, an Ettlinger, a Pollak and a Rathouse, a Maisels and a Hanson, a Welsh, a Kentridge, a Chaskalson .

"Today no doubt advocates of similar calibre, were they given the choice, would hesitate long before accepting invitations to become judges That this should be the position is a blow to the prestige of our Supreme Court and a blot on our legal system," he said

Three of those named by Mr Justice Didcott are commonly accepted in the profession as among the greatest advocates to have been produced in South Africa

All three have served as judges of appeal in neighbouring states Mr Maisels was president of the Swaziland Appeal Court, Mr Welsh was senior appeal judge there and Mr Kentridge has served as a judge of the Botswana Appeal Court and is a respected QC in London

The tendency to overlook eminently qualified people was possibly not as pronounced today as it was 20 or 30 years ago, "but it is very difficult to know because of the tradition that if it has been offered and you have turned it down you do not talk about it", said one source

"It would become invidious if people did talk about refusing an appointment It would appear as if someone appointed was third, or fifth or sixth choice for the position

"But this also makes it difficult to know whether someone, if they had been approached, would have accepted"

At the very outset the problem is about the limited size of the community of senior counsel available for selection

It's limited because there is a degree of personality and personal choice that initially decides whether people in the profession will practise as attorneys or choose the more lonely life of an advocate at the Bar.

From here one can, if inclined, "take silk" and become a senior counsel As with much else connected with legal appointments, much depends on practice and tradition, rather than stipulated procedures.

Someone becomes a senior counsel after practising at the Bar, proving himself both before the Bench and to his peers in the demanding hurly-burly of civil and criminal trials

An advocate needs the support and approval of the chairman of the Bar Council and the Judge-President of the division after which an application for silk is approved by the Executive on the recommendation of the Minister of Justice

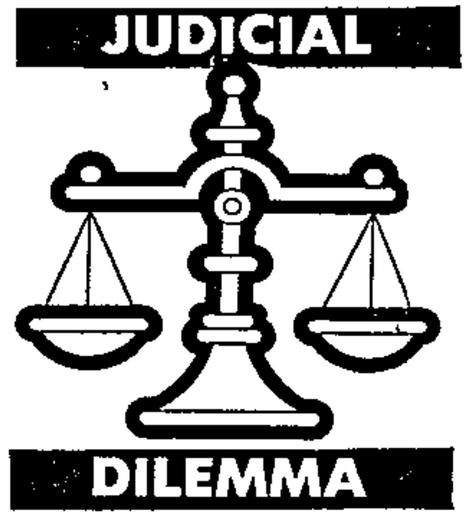
Thus the community available for elevation to the Bench is restricted to those people who have found their way through the necessary academic and professional qualifications, gone to the Bar and found acceptance in the eyes of their peers and finally been approved by the State

As senior counsel, advocates must still prove themselves as having the requisite intelligence, knowledge of the law and independence to make a fit judge

Again, elevation to the Bench depends on practice and convention

In the first instance, the Judge-President of a division of the Supreme Court either formally or informally approaches a senior counsel to see if he would accept an appointment. If it is accepted, the Judge-President advises the Minister of Justice and on his recommendation the appointment is approved by the Executive.

● The final article in this series will appear tomorrow.



Libraries not up to standard, judges complain

A DEPARTMENT of Justice spokesman said each judge had his own clerk or secretary with typing facilities

"Furthermore, the facility of a typing pool is available at the Registrar's division for use by judges.

"Lubbes, a private typing and transcription service, types most of the judgments

"The two typists mentioned are in addition to these," she said.

Judges complain that libraries are not up to standard, nor are information retrieval systems such as are available at universities, and librarian posts have been degraded to such an extent that it is difficult to get qualified librarians to work for the salary, let alone legal librarians

Meanwhile, the workload of judges is said to have increased enormously in recent years, itself a symptom of South Africa's troubled society.

More serious and violent crimes mean more appeals, more lower court sentences for review and more time devoted to this aspect of administering justice

At the same time, the increasing conflict within society has meant more public violence and subversion and "terrorist" trials, hearings of urgent interdicts on behalf of detainees, challenges to emergency regulations and actions under them

The first in a two-part series by DICK USHER, Staff Reporter

Whether his Department is planning any recreational resorts and out-of-school sports facilities for the current financial year, if so, (a) what (i) resorts and (ii) facilities and (b) what total amount is it estimated will be involved?

The MINISTER OF EDUCATION AND DEVELOPMENT AID

Yes, in the case of the Department of Development Aid

(a) (i) (1) In co-operation with Qwaqwa, the first fase development of a recreational resort at Botshabelo, which will include a kiosk, picnic spots, ablution blocks, a recreational hall and playground

(2) The erection of a restcamp on the hiking trail at the Blouberg Nature Reserve in the District of Pietersburg

(3) The erection of a wilderness camp and picnic spots at the Lekgalameetse Nature Reserve in the District of Letaba

(4) The erection of a caravan camp at the Arabie dam Nature Reserve in the District of Groblersdal

(5) The erection of a wilderness camp and the laying out of hiking trails at the Ntubeni Nature Reserve in the District of Port Shepstone

(ii) (1) Botshabelo — The erection of an indoor arena and change rooms at the soccer stadium

(2) Imbali — The planning and commencement of a sport complex consisting of a soccer field, athletics track and a tennis court

(3) Ashdown — Enlarging of the existing soccer field.

(4) Clermont — Erection of a soccer stadium, combi court and practice wall.

(5) Nqutu — The planting of grass and the provision of water, temporary seating and a kiosk at the soccer stadium

(6) Soshanguve — Two soccer fields as well as the erection of change rooms at the soccer stadium and the two existing soccer fields

(7) Nondweni — The erection of a sport complex with amongst others a soccer field and an athletics track

(8) Inanda — The development of a soccer field, six combi courts and a swimming pool

(9) Tshiame — The levelling of a site for general sports

(b) R7 742 115

No, in the case of the Department of Education and Training

(a) and (b) fall away

NOTE.

(1) The responsibility for recreation resorts is at present being transferred to the Provincial Administration

(2) An amount of R11 200 000 has been budgeted for the completion of out-of-school sports facilities initiated during the previous financial year

(3) Projects currently under construction, approximately 259

John Vorster Square: special group areas police squad stationed

*4 Mr J VAN ECK asked the Minister of Law and Order

(1) Whether a special group areas police squad has been stationed at John Vorster Square in Johannesburg; if so, (a) since when has this squad been in existence and (b) what is the purpose of the squad,

(2) whether this squad visited Cape Town in 1987 and 1988 to investigate alleged contraventions of the provisions of the Group Areas Act, No 36 of 1966; if so, on how many occasions,

(3) whether any other similar squads are in existence within the South African Police

Force, if so, (a) how many and (b) where are they stationed?

†The MINISTER OF LAW AND ORDER

(1) (a) and (b) I refer the hon member to my reply to oral Question No 5 of 9 June 1987

(2) Yes On one occasion during 1987

(3) Yes

(a) and (b) One such unit was established at C R Swart Square, Durban, after July 1987

Upgrading of Kwamevane Township: amount allocated

*5. Mr R W HARDINGHAM asked the Minister of Constitutional Development and Planning:

(1) Whether, with reference to his reply to Question No 5 on 25 August 1987, his Department has allocated the amount of approximately R1,5 million for the upgrading of Kwamevane Township, near Howick, if not, why not; if so, for what purpose was this amount utilized,

(2) whether additional funds will be allocated in this regard in the 1988-89 financial year; if not, why not, if so, what is the amount involved?

†The MINISTER OF CONSTITUTIONAL DEVELOPMENT AND PLANNING

(1) No, but the National Housing Commission has approved a project in respect of planning fees (design) to the amount of R70 000 of which R18 778 was spent during the 1987/88 financial year

(2) Yes, an amount of R11 223 as applied for by the Natal Provincial Government, has been earmarked for the continuation of the planning (design)

Contact with Mr Nelson Mandela

*6 Mr C J DERBY-LEWIS asked the Minister of Justice:

With reference to his reply to Question No 4, standing over, on 29 March 1988, (a)(i) at which prison institution or institutions and (ii) on how many occasions has he had contact with Mr Nelson Mandela and (b) what was the (i) date and (ii) purpose of each of these meetings?

†The MINISTER OF JUSTICE

As mentioned in my reply to Question No 4 on 29 March 1988 I do visit prisons and I do have contact with individuals and groups of prisoners under various circumstances. In this process I have had contact with Mr Nelson Mandela However, I do not deem it desirable to deal with details regarding specific prisoners in public

Meeting with Mr Nelson Mandela outside prison premises

*7 Mr C J DERBY-LEWIS asked the Minister of Justice

Whether, with reference to his reply to Question No 4, standing over, on 29 March 1988, he has at any time met with Mr Nelson Mandela outside prison premises, if so, (a) what was the purpose of these meetings and (b)(i) when and (ii) where did they take place?

†The MINISTER OF JUSTICE

The hon member is referred to my reply to the previous Question

Countries in Africa which have accorded landing rights to SAA

*8 Mr C J DERBY-LEWIS asked the Minister of Transport Affairs

Whether he will furnish the names of the countries in Africa which have accorded landing rights to the South African Airways, if not, why not, if so, (a) what are their names and (b) in respect of what date is this information furnished?

†The DEPUTY MINISTER OF TRANSPORT AFFAIRS

Yes

(a) Botswana, Lesotho, Swaziland, Mocambique, Zambia, Malawi, Zimbabwe and Ivory Coast

(b) 22 April 1988

Locust control: amount spent

*9 Mr R W HARDINGHAM asked the Minister of Agriculture

(1) What amount was spent on locust control during the latest specified period of 12 months for which figures are available,

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Bday 4/5/88

Unrest killings: no prosecutions

CAPE TOWN — The Cape Attorney-General Neil Rossouw has declined to prosecute policemen in two cases arising out of the killing of people during unrest on the Cape Flats.

One involves the so-called "Trojan Horse" incident in which three people died when police popped up from boxes on the back of a lorry and opened fire during the height of the unrest in Athlone in 1985.

In March this year, a Wynberg magistrate found a police lieutenant and his task force responsible for the killings, and found negligence was involved.

In the second case, Rossouw has declined to prosecute Martinus Mans, former district commandant of Bellville, and Ockie van Schalkwyk, former head of the district's riot unit.

After the two policemen were acquitted of murder after an unrest incident in Bellville in 1985, police said the case had led to charges of defeating the ends of justice and perjury being investigated against the officers

Commenting on the Trojan Horse decision, Rossouw said the Criminal Procedures Act allowed for private prosecutions by persons who proved "substantial and peculiar interest" when the attorney-general declined to prosecute.

Rossouw said that before his decision not to prosecute, he had received indications there might be a private prosecution — Sapa.

SA 'to train Maputo troops'

NEW YORK — SA was negotiating to train and equip some Mozambican government troops to defend electric power lines that run through Mozambique, the New York Times said yesterday.

Quoting an SA official in Maputo, the paper said as many as three battalions would defend the lines against attacks.

Three-nation negotiations with Portugal, about restoring and defending the lines, have been going on since last year.

"SA would provide training and non-lethal aid-ration packs, vehicles, uniforms, radios and mine detectors," Pretoria's deputy trade representative in Mozambique Timo Beukes said

He said training would cost about

Dio 415788

Coetsee mum on Mandela

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Political Correspondent

CAPE TOWN — The Minister of Justice, Mr Kobie Coetsee, yesterday refused to give details of his meetings with ANC leader, Nelson Mandela, or to say whether he had met him outside Pollsmoor Prison.

He had been asked by Mr Clive Derby-Lewis (CP, indirectly elected) on how many occasions he had met Mandela, at which prison institutions these meetings had taken place, whether he had met Mandela outside prison premises and on what dates these meetings had taken place.

Mr Coetsee said he did visit prisons and he did have contact with individuals and groups of prisoners "under various circumstances".

"In this process, I have had contact with Mandela.

"However, I do not deem it desirable to deal with details regarding specific prisoners in public," Mr Coetsee said.

'Upington 25' may hang for municipal policeman's murder

W/Mail 5/12/5/88

There was a world outcry when the "Sharpeville Six" were sentenced to death. Now, in a remarkably similar case, unreported for 18 months, the "Upington 25" face a similar fate. By GAYE DAVIS

TWENTY-FIVE residents of a tiny Northern Cape black township may face the gallows after being convicted of the 1985 murder of a municipal policeman.

Their conviction rests on a legal principle applied in the controversial Sharpeville Six judgement — that of common purpose.

After a marathon 18-month trial, Mr Justice J Basson found the 25 — ranging in age from 20 to 60 and including three women — guilty of murder, convicting a 26th of attempted murder.

Most of the accused were convicted on the basis that they were part of a crowd which stoned the home of a municipal policeman before he was killed and his body assaulted and set alight, also by a crowd of people.

The court found the intention of the group was to drive the man from his house and kill him. Those involved in the stoning thus associated themselves with the common purpose of the group.

The incident took place in the Upington township of Paballello on November 13 1985, after a meeting called by residents to discuss high rents and other grievances was broken up by police using teargas.

Soon afterwards, the home of municipal policeman Lucas Tshenolo Sethwala, better known as "Jetta", was stoned by a crowd of people.

According to a summary of the facts, Jetta fired a shotgun from his house, wounding someone before fleeing

Tackled and brought down in a nearby field, he was hit twice over the head with his shotgun. The blows broke the butt of the rifle and killed him, according to evidence by a pathologist called as a defence witness.

His body was then stoned and kicked, before being set alight. The court found this was done by the same group of people who stoned the man's house.

Using the doctrine of common purpose, the judge found that even though the accused may not have taken part in the policeman's actual killing, the fact they were part of a crowd which threw stones at his house was enough for him to infer the intention was to drive him from his house and kill him.

He found that most of the accused were part of the crowd that threw stones — and that by doing so, they actively associated themselves with the group and its purpose.

The case has received scant publicity: from its start in 1986 until February this year it was held *in camera* because some of the accused were still minors.

Last week Mr Justice Basson concluded his 400-page judgement. Argument in mitigation and on extenuating circumstances resumes on June 1.

Those who face the death sentence include.

- A former mayor of Paballello township, Kenneth Khumalo, 31, who was serving as the town council's treasurer at the time of his arrest in December 1985 It was found he helped stone Jetta's house and was seen with a container filled with liquid resembling petrol

There was no evidence he actually took part in assaulting Jetta but the court noted that bottles were found near the place where the body was set alight. The court found that by his action he had formulated an intention to kill the man — and on this basis, convicted him,

- Justice Bekebeke, 26, a male nurse found to have played a major role in that he stoned the policeman's house, thus furthering the common purpose, chased him and struck him twice on the head with the shotgun, fatally wounding him,
- Elijah Matshoba, 22, found to be a "principal offender" for taking part in the assault on the policeman after the two blows which killed him had been struck,
- Xoliswa Dube, 21, one of three women convicted, found to have incited the crowd by shouting that Jetta was inside his house. The court also found she knew the crowd wanted to drive him from his house and kill him and that by her incitement, actively associated herself with the common purpose. Dube gave birth during the trial. Her child is now 10 months old,
- Gudlani Bowu, 27, found to have gathered with others outside the policeman's house before the stoning, where they talked while looking towards the house. The court found this and their part in the stoning sufficient to infer common purpose;
- Boy Jafta, 23, found to have associated himself with the common purpose by stoning the house and that, with Ronnie, 22 and Wellington Masiza, 26, he was seen returning from general direction where policeman's body was set alight.

FOR THE RECORD

RHODES University workers staged a four-day strike ending on Monday The Transport and General Workers Union is presently negotiating for minimum wages of R800, instead of the R169 per month some workers receive. Three workers were briefly detained.

THE formation of a national, non-racial teachers' union has drawn closer following a conference in Harare this month, which included representatives of "progressive" teacher groupings and of the officially-recognised black, "coloured" and Indian teacher groups.

MORE than 200 Paper, Wood and Allied Workers' Union members at Sappi-Adamas paper mills in Port Elizabeth this week downed tools after a deadlock in wage negotiations The union demanded an across-the-board increase of R1.30 an hour.

THE 18-month-old dispute between General Motors South Africa and the 3 000 workers dismissed following GM USA's pull-out from South Africa continued this week in an Industrial Court hearing in Port Elizabeth.

BRITAIN's National Union of Railwaymen (NUR) has launched a campaign for the release from prison on humanitarian grounds of veteran South African trade unionist Harry Gwala

CHARGES of assault and unlawful detention have been laid against policemen in Durban who allegedly beat up a student attending a recent township funeral

THE Ciskei MP recently jailed for activities as a vigilante leader is to be asked to resign his seat in the Ciskei National Assembly.

Reports by Elnews, Weekly Mail Reporters and Pen

W/E ARGUS 7/5/88 (252)

Security and the law — who wins?

At a conference on laws against trade unions and political organisations convened by the University of Cape Town's labour law unit, Mr Geoff Budlender, director of the Legal Resources Centre in Johannesburg, argued that the trend in South Africa was for the Government to extend the scope of "security" matters and to remove them further from judicial restraint. He warned that this was a form of State lawlessness which held grave future dangers. This is an edited version of his talk.

by DICK USHER
Weekend Staff Reporter

THE essence of law is the regulation and control of the exercise of power Law determines when and how power may be exercised, and when it may not, says Mr Geoff Budlender, the director of the Legal Resources Centre in Johannesburg

He outlined an analysis of "urban black law", under which he said the Government had been endowed with powers beyond the effective control of Parliament and the exercise of which could be challenged in the courts to only a very limited extent

"This approach is epitomised by the provisions of the Black Administration Act of 1927 It set the tone for legislation which followed over the next 50 years.

"It was a system of administration rather than law which was created The aim was the efficient administration or management of urban Africans

Mr Budlender

"The legislation was generally understood in this way by the courts, which were slow to interfere with the administrators in their work

"Africans were to be subjects, to be governed by those who knew what was best, and it was advisable not to place these experts under legal restraint

"From the mid-1970s into the 1980s changes started to emerge In a series of four decisions, the Appellate Division recognised that urban Africans had rights as opposed to exemptions from prosecution

"From the late 1970s — curiously, almost simultaneously with this series of cases — certain administrative powers began to be restrained.

"Probably the most fundamental changes were introduced by the Abolition of Influx Control Act which demolished an extensive armoury of legislation built up over decades

"Secondly, there has been a deliberate and sustained attempt to remove all effective control over the activities of those defined as security forces.

"The attempt to exclude control through the legal process has taken three forms.

"Firstly, there is an indemnity clause which is designed to prevent or inhibit legal proceedings being taken against the State in respect of unlawful conduct by its own officials.

"This is a prospective indemnity: by enacting a prospective indemnity the State effectively says that it anticipates its officials are going to act unlawfully, but it cannot or will not do anything to prevent this State officials must therefore be given a free hand.

"Secondly, the 'ouster clause' in the emergency regulations is designed to prevent the courts interfering to prevent imminent or continuing unlawful action.

"Thirdly, the exclusion of the right of detainees to have access to their lawyers also effectively excludes the right of access to the courts If you say to a detainee 'you may only see your lawyer with my permission' you are also effectively saying 'you may only have access to the courts with my permission'.

"The emergency regime has brought about a further radical change, and that is the far-reaching delegation of rule-making powers to officials, who exercise a subjective discretion in determining what rules they will make

"There were initially some serious and sustained efforts by the courts to continue to exercise legal restraints over those powers Since the Omar judgment (*Omar* vs *Minister of Law and Order* 1987) those efforts have been all but ended

"In effect, the Court has declared a policy of abstentionism. The unarticulated premise seems to be a 'hands off' approach to issues which are regarded as security matters In this way, the emergency has substantially been placed beyond legal control, or beyond the law

"What is even more worrying is that the range of what is officially regarded as the 'security' area is growing all the time."

Mr Budlender said it had often been recognised that law had a double-edged function — it provided remedies through "the system" and by so doing it drew people into "the system"

"For those outside 'the system', the system itself holds sometimes fatal attractions Participation brings with it the danger of co-option, but holds out real benefits

"The growth of the 'security' area and of lawlessness is however likely to remove that difficult choice

"Participation will be seen to offer no benefits If the State is perceived to exercise its powers through force rather than through law, those who are the subjects of that force are likely to draw the conclusion that it can only be met by force.

"The prospect is a grim one because it foreshadows not only the events which are likely to take place as our society struggles to transform itself it also foreshadows the state of mind which will be held by large numbers of people, and particularly young people, as and when that transformation is accomplished."

"One purpose of the Act was to bring the area of black administration under legal control

"The changes that emerged were not the result of a sudden and spontaneous outburst of liberalism on the part of Government But the significant feature is the unmistakeable shift away from arbitrary official power — lawlessness — towards law."

Mr Budlender then compared the former exercise of State power over blacks with the area of security legislation which, he said, had always been an inhospitable one for lawyers and the courts.

"However, the emergency regime has brought about radical changes in several respects.

"In the first instance, the scale of 'security' action has increased in a way that places it on a different plane. A great deal of lawful and peaceful political activity has been criminalised.

Statement on Sharpeville Six a surprise to lawyers

By DE WET POTGIETER

LAWYERS acting for the condemned Sharpeville Six have reacted with surprise after the Bureau for Information released a lengthy statement on behalf of the so-called "concerned residents of Lekoa"

The bureau's "highly unusual" statement comes at a time when the Attorney-General, who has already filed papers before court, is opposing an application for a stay of execution on the death sentence imposed on the six

The six's counsel still have seven days in which to file answering affidavits

The controversial bureau statement recalls in detail how Mayor of Lekoa Jacob Dlamini was murdered by a mob on September 3 1984

The statement, signed by Mr Ben Scott, the city secretary for Lekoa, on behalf of "concerned citizens", raised questions about the future of the dead man's family.

Reference is also made to the fact that his wife was later admitted as a mental patient to the Sterkfontein Hospital in June 1986 and died last month

Quoting unsourced "medical reports", it says Mrs Dlamini became "psychologically unstable, hyper-religious, aggressive and suffered from suicidal tendencies following the murder of her husband"

Although no mention is made of the cause of Mrs Dlamini's death, it says she died "leaving the Dlamini children, aged 17, 11, and 8 orphans"

The family was also experiencing intimidation

The statement claims Mr Dlamini's brother, Sello Dlamini — who is caring for one of the murdered mayor's sons, Silas — was visited by two clerics, another man (all three are named) and "an unknown black man on March 15 this year"

"The unknown man told me to take pity on the 'Sharpeville Six' and to forgive them so that they wouldn't be hanged," Mr Dlamini said.

"He said he would return on March 17 with a document I had to sign," Mr Dlamini said in the statement.

"The next day my wife told me that two black men visited her and told her that my house would be burnt if I did not sign the document."

No further details are given in the statement on the alleged intimidation or the "document" the men wanted signed.

25 Star 8/5/88

(b) (i) Contradictory allegations concerning a number of issues including the competence of the teaching staff of the school

(ii) Instructions for a full departmental investigation have been given

Kirstenbosch National Botanical Gardens: fences/gates installed

*23 Mr K M ANDREW asked the Minister of Environment Affairs

(1) Whether any (a) fences and/or (b) gates have been installed at the Kirstenbosch National Botanical Gardens over the past year, if so, (i) what fences or gates, (ii) where, (iii) why, (iv) what was the total cost of erecting these (aa) fences and (bb) gates and (v) who made the decision to instal them in each case,

(2) whether any changes to the access, or conditions of access, of members of the public to these gardens were effected or are to be effected in the current year, if so, (a) what changes, (b) when, (c) why and (d) who made the decision to introduce these changes,

(3) whether (a) persons or organizations have and/or (b) the public at large has been consulted in respect of the proposed changes, if not, why not, if so, (i) when and (ii) what was the (aa) nature of the consultations and (bb) outcome thereof,

(4) whether any public meeting for the purpose of discussing the proposed changes was held is to be held, if so, (a) when, (b) at what time of day, (c) where, (d) who called the meeting, (e) how was it publicized and (f) who took the initiative in respect of such publicity,

(5) whether any (a) plants were stolen from, and/or (b) unauthorized late-night parties were held in, the grounds during the past year, if so, (i) what was the extent of the damage and (ii) to which police station were the incidents reported in each case?

The MINISTER OF ENVIRONMENT AFFAIRS

(1) (a) and (b) Yes

(i) 4 m wooden and 1,8 m steel bar gates as well as 1,8 m and 1,2 m steel bar fences

(ii) At the top entrance from Rhodes Drive, as well as at the main entrance of Kirstenbosch through the marsh area and at the Nursery

(iii) To secure the property, and to ensure that the regulations are enforced and to prevent persons from entering the prohibited areas by car or on foot

(iv) (aa) & (bb) No costs to State The total amount of R82 462,00 was financed from donations by the Pinelands Horticultural Society and the Development fund of Botanical Society of South Africa for the National Botanic Gardens

(v) The Board of the National Botanic Gardens

(2) Yes

(a) A change in the entrance fee structure,

Garden will not be accessible from Rhodes Drive before or after official hours, and

An access card system will be introduced upon payment for approved visitors after hours

(b) During 1988

(c) An extensive opinion-poll amongst visitors was conducted,

Problems were experienced with people visiting the gardens before and after official hours, and

Plants were stolen, burglaries occurred, dogs chased birds and killed game and late-night parties were held in the garden

(d) The Board of the National Botanic Gardens

(3) (a) and (b) Yes, visitors to Kirstenbosch

(i) 5 to 18 December 1986

(ii) (aa) Questionnaires were handed to all visitors with the request to indicate to what extent they agree with certain views More than 95% of the visitors returned the questionnaire

(bb) 67% of the respondents agreed that the garden should be unobtrusively fenced to ensure the safety of visitors and safeguard the property of the National Botanical Gardens

(4) Yes

(a) 27 May 1988

(b) 10h00 to 12h00

(c) Kirstenbosch Lecture Hall

(d) The Executive Director of the National Botanic Gardens

(e) The press and the SABC were informed, posters were put up at the main entrance of the gardens and persons who expressed interest were informed All the organizations who previously attended such a meeting and expressed the wish to attend future meetings were also invited

(f) Director of Education/Information

(5) (a) and (b) Yes

(i) It is not possible to determine the value

(ii) The incidents were not reported to the South African Police

Mr K M ANDREW Mr Speaker, arising from the hon the Minister's reply, may I ask him in relation to the expenditure on the gates and fences whether the money that came from those other sources was given to Kirstenbosch Gardens specifically for those purposes, or for any purposes to be decided on by those in charge of the Gardens?

The MINISTER Mr Speaker, I am not sure of that I shall find out and let the hon member know

Mr K M ANDREW Mr Speaker, further arising from the hon the Minister's reply, may I ask him whether he is aware that the survey questionnaire was formulated by the executive director himself and is considered by the people in market research to be a totally unsuitable type of questionnaire to elicit the information required?

The MINISTER Mr Speaker, I am not aware of that

Mr K M ANDREW Mr Speaker, further arising from the hon the Minister s original reply, may I ask him whether he is prepared to investigate the seriousness of the alleged thefts and parties in view of the fact that the executive director did not consider them serious enough to report those incidents to the police, yet is spending large sums of money and planning to deny the public access to those gardens?

The MINISTER Mr Speaker, the answer is yes

Condemned prisoners on their way to the gallows: accompanied by doctor/minister of religion

*24 Mr D J DALLING asked the Minister of Justice

(1) Whether condemned prisoners on their way to the gallows are accompanied by a (a) doctor and/or (b) minister of religion, if not,

(2) whether such prisoners are accompanied by any other person, if so, by whom?

The MINISTER OF NATIONAL EDUCATION (for the Minister of Justice)

(1) The death sentence is carried out strictly in accordance with the stipulations of the Prisons Act, 1959 (Act 8 of 1959) and the Regulations promulgated thereunder Furthermore, it is standing policy to approach executions and everything related thereto with responsibility and the utmost respect

Medical treatment and assistance by medical doctors is always available to all prisoners, including prisoners sentenced to death The spiritual care of all prisoners is a matter between the prisoner and the church or religion concerned and the SA Prisons Service give assistance as far as possible within the framework of the Prisons Act and the Regulations promulgated thereunder

(2) The persons who attend an execution are mentioned in section 35(2) of the Prisons Act, 1959

Condemned prisoners awaiting execution: form of sedation given

*25 Mr D J DALLING asked the Minister of Justice

Whether condemned prisoners awaiting execution are given any form of sedation prior to being hanged if so, (a) what form of sedation and (b) how long before hanging is it administered?

The MINISTER OF NATIONAL EDUCATION (for the Minister of Justice)

'TORTURE' IN SA IS CLAIMED

Sowetan 11/5/88

(252)

Report by four jurists

GENEVA — The International Commission of Jurists yesterday charged South Africa's security forces with widespread use of torture and violence, even against children, as part of a repressive strategy.

A 160-page report said there is evidence that "an undemocratic government has extended the executive power of the state (in South Africa) so as to undermine the rule of law and destroy basic human rights"

The 1982 Internal Security Act, it said, creates a series of criminal offences of a political character "in extremely wide and often vague terms"

Children

"We have found that the Government has allowed intimidation of suspects and accused persons, by the security forces . . to take place on a large scale and in a variety of ways," said the report drawn up by four West European law experts sent to South Africa by the commission last year.

"We stress particularly the alleged widespread use of torture and violence, even against children, which is habitually denied by the Government and thus goes unpunished, though plainly illegal under South African law"

According to the report, major abuses by the security forces also included "use of excessive force in crowd control operations," encouragement of vigilante forces, and arrest and intimidation of lawyers representing alleged political offenders.

Recent economic and moral pressure has "forced a degree of relaxation in the formal structure of apartheid but the will of the ruling minority to retain power seems undiminished," it added

It said Pretoria is faced with a dilemma "A repressive strategy has become increasingly necessary to contain the huge disenfranchised majority, yet the acknowledgement of such a strategy cannot be easily reconciled with South Africa's pretensions to legitimacy within the Western liberal tradition"

— Sapa-AP

Budget for Legal Aid Board increased

(252)

Star 11/5/88

The Government has approved funds for the Legal Aid Board which would push the board's budget to R22 million by the 1991/92 financial year, Minister of Justice Kobie Coetsee said in the House of Representatives yesterday.

Replying to the debate on the justice and prisons vote, he said the budget for the Legal Aid Board for 1988/89 was R12 million, 33 percent up on last year. The board's budget would increase to R12,9 million in 1989/90 and R17 million in 1990/91.

He said he would work towards the establishment of a reserve fund for the board, and he intended to ask the Government to match any private-sector contributions rand for rand to an annual maximum of R5 million. — Sapa.

SA forces use torture, says report

Star 11/5/88 (252)

GENEVA — The International Commission of Jurists charged South Africa's security forces yesterday "with widespread use of torture and violence, even against children".

A Pretoria police spokesman said last night he could not comment "at this stage" on the allegations.

A 160-page report said there was evidence that "an undemocratic government has extended the executive power of the State so as to undermine the rule of law and destroy basic human rights".

The 1982 Internal Security Act, it said, created a series of criminal offences of a political character "in extremely wide and often vague terms".

With one-sided procedural rules, the Act provided the State "with the means of securing the conviction of virtually any political opponent".

"We have found that the Government has allowed intimidation of suspects and accused persons, and interference with legal processes by the security forces ... to take place on a large scale and in a variety of ways," said the report, which was drawn up by four European law experts sent to South Africa by the commission last year.

UNPUNISHED

"We stress particularly the widespread use of torture and violence, even against children, which is habitually denied by the Government and thus goes unpunished, though plainly illegal even under South African law."

Abuses by the security forces included "use of excessive force (including many killings) in crowd-control operations"

Parliament was increasingly bypassed by a "largely secret system of administrative control operated by a 'joint management committee' answerable to the National Security Council"

The report said economic and moral pressure had forced a degree of relaxation in apartheid.

The authors were named as Mr Geoffrey Bindman (UK), Ms Jean-Marie Crettaz (Switzerland), Mr Henry Downing (Ireland) and Mr Guenter Witzsch (West Germany). — Sapa-AP

Police packed Wynberg court

POLICE deliberately packed the small Wynberg Magistrate's court for a terrorism trial on March 15, the Minister of Law and Order, Mr Adriaan Vlok, virtually conceded yesterday.

He was replying to questions by the non-aligned MP for Clairmont, Mr Jan van Eck, who wanted to know who had given the police the order to pack the court.

Mr Van Eck posed the questions to the Minister of Justice, Mr Kobie Coetsee, who was absent from Parliament. His reply was read by Mr Vlok

Mr Coetsee wrote that he had been informed by the magistrate that because only 60 seats were available, discussions had been held about admission to the court.

"It was agreed that three family members for each of the eleven accused were to be allowed in court."

Mr Van Eck, who had attended the proceedings, then asked Mr Vlok who had ordered the police to pack the room.

He replied there were "certain" police in court to ensure order.

Mr Van Eck said in a statement later he was pleased that Mr Vlok had now conceded that the court had been deliberately packed.

"Family members did not all get seats."

Pilgrims to have vaccines

ALL pilgrims visiting Mecca will apparently now be required to have valid immunization certificates against yellow fever, cholera and meningitis. The Director-General of the Department of National Health and Population Development, Dr C F Slabber, said yesterday his department had made arrangements to make the vaccines available.

Investigation not warranted, says Minister

Suzman calls for probe into hanging

Star 12/5/88

South Africa was fast developing a reputation as a punitive, hanging country, **Mrs Helen Suzman (PFP, Houghton)** said in the House of Assembly yesterday.

"To hang 200 people over the past 15 months sends shivers down my back It is a cruel and unnatural punishment," she said in debate on the Justice Vote.

Mrs Suzman said she supported the call by her colleague, **Mr Dave Dalling (PFP, Sandton)**, for the appointment of a judicial commission of inquiry to investigate the efficacy of the death sentence as a deterrent.

The **Minister of Justice, Mr Kobie Coetsee** said that nothing raised in the debate on his Vote warranted the appointment of a commission of inquiry into the death penalty.

But, Mr Coetsee said, the Government would possibly seek "refined advice" from the judiciary on the principle of not making the death sentence mandatory in murder cases without mitigating circumstances.

Abolished in 25 countries

Unisa academics found that the death penalty had been abolished in only 25 countries.

In Britain, the public was 3 to 2 for reintroducing it.

Nothing had happened to indicate that the death penalty should no longer be available to the South African judiciary.

Earlier in the debate, Mr Dalling said that 164 people were executed in South Africa last year. Mistakes could occur and the irreversabilty of the sentence precluded correction

"More than 50 years had elapsed since the death penalty was investigated in depth. The Minister of Justice should consider instituting an investigation through the offices of the Law Commission.

Mrs Helen Suzman ... "this cruel and unnatural punishment sends shivers down my spine."

The immediate past Director-General of Justice, Mr J P J Coetzee, had said that further steps should be taken to be certain of the guilt of a person sentenced to death

Mr Coetzee had argued that an automatic right of appeal be instituted against the death sentence.

"When a person's life is at stake, he should be allowed the opportunity to put his case before the highest court in the land as a matter of right," said Mr Dalling. — Sapa.

Deaths Verdicts too soft, say lawyers

A murder trial — similar to that of the 'Sharpeville Six' — in which six Inkatha members are accused of beating an elderly woman to death, ends with a surprisingly lenient judgement

CARMEL RICKARD reports

SENTENCES in one of the first mass trials resulting from the violence in the Pietermaritzburg area have caused consternation because of their alleged leniency.

Lawyers acting for victims of the conflict in the region say they fear, as a result, an increased reluctance by potential witnesses to give evidence.

Members of the legal profession have also commented on the "alarming disparity" between sentence passed in this case and that of the "Sharpeville Six".

Last week six members of Inkatha appeared in the Pietermaritzburg Supreme Court before an acting judge from the Cape. They pleaded guilty to murdering an elderly woman by beating and stabbing her to death with assegaais and sticks

They said they had believed she was a supporter of the United Democratic Front, that she gave other UDF supporters special herbs for extra strength and that she provided shelter at her home for UDF members. They believed her sons were UDF members and were responsible for some of the violence in the district.

The judge said he took into account that the six had lost family, friends and possessions in the violence, and that they acted in a state of "mass psychosis"

However, he called it a "brutal murder" and said their victim had not provoked them in any way.

They were sentenced to jail terms of between three and seven years, but in each case, half the sentence was suspended, meaning they will serve a maximum sentence of one and a half to three and a half years.

A number of lawyers have compared this case with that of the Sharpeville Six in which the accused were sentenced to death for the 1984 murder of a councillor, Khuzwayo Dlamini, at a period of heightened unrest

The judge in that case held the six were guilty of "common purpose" even though he found that at least some of them had not directly caused Dlamini's death.

The acting dean of law at the University of Zululand, Charles Dlamini, said he found the disparity between the sentences handed down in the two cases "really disturbing".

"The sentencing process is a very delicate issue, but when a judge gives a sentence, the community must feel that justice has been done. In this case, however, the public could well feel that motives other than considerations of justice have intruded

"This disparity, if it is not explained, raises a lot of suspicion in the minds of the public."

James Lund, dean of the School of Law, University of Natal, Pietermaritzburg, said the public had the right to expect some degree of consistency in sentencing, although obviously each case was different. However, there was cause for concern about the leniency of the sentences in the Pietermaritzburg case. This, and the "alarming disparity" between the two cases, not fully explained by the differences in detail between them, could bring the administration of justice into disrepute.

Lawyers acting for families who have lost relatives in the Pietermaritzburg violence have also spoken about their concern lest the judgement further undermine their clients' faith in the legal process

One commented that in view of pending trials of so-called war-lords, he was concerned whether the sentence passed on the "Pietermaritzburg Six" might be "an unfortunate precedent" in other cases involving serious crimes of violence in the continuing conflict in the region.

The Natal attorney general and the police have complained on a number of occasions about the difficulty they are experiencing in getting witnesses to come forward to give evidence about crimes of violence

"Witnesses wanting to participate in the legal process could be made even more afraid to speak when the accused are given virtually meaningless sentences which put them back on the street."

Dean of law at Natal University, Durban, David McQuoid Mason, said he anticipated the sentence in the case of the "Pietermaritzburg Six" could cause "concern and disquiet" among Natal judges, members of the legal profession and members of the public, because it could affect the credibility of the courts

W/Mercury 13-19/5/88

Pressure for death penalty probe

252 Star 16/5/88

Own Correspondent

JOHANNESBURG — Pressure is mounting for an official investigation into the increased use of the death penalty in SA

A public meeting tomorrow at Wits University will focus attention on the issue

Last week PFP MPs Mrs Helen Suzman and Mr Dave Dalling called for a judicial commission of inquiry into the efficacy of the death penalty as a deterrent.

There were 164 executions last year and 44 by the beginning of April this year There are currently 53 people awaiting execution

Wits Law Professor John Dugard said there were 120 executions in 1969, but following a campaign against the death penalty, the number dropped to about 50 or 60 in the mid-1970s.

He said increased public attention could put pressure on the State President to exercise his powers of reprieve

Legitimacy of system questioned — judge

Star 19/9/8 252

By Tim Cohen

Many South Africans have begun to question the very legitimacy of our legal system, a Rand Supreme Court judge, Mr Justice Goldstone, said on Tuesday night.

Speaking on "Law and Morality" at a function organised by the Law Students' Council of Wits University, Mr Justice Goldstone said sitting judges rarely spoke on a public platform, but he had accepted the invitation because of the importance of the topic.

"Wider powers conferred upon the executive and the police by successive security statutes and states of emergency in the early 1960s and since June 1985 have added impetus to the quest for standards and for terms of reference.

"Black lawyers question its (the legal system's) legitimacy not only because of laws which discriminate on the grounds of colour, but for the reason that blacks have not participated at all in the law-making process," he said.

"On that ground, all the laws are said to be lacking in legitimacy."

IGNORED

Mr Justice Goldstone said the fact that this debate was being conducted at all levels of South African society was important and frequently ignored by critics of South Africa.

"It is in this context that we have to find criteria to measure the laws and the legal system

"Surely decent and moral people can agree on whether some or other law is moral or ethical or just, whether they be supporters of a socialist, capitalist, liberal or mixed forms of government

"The present state of non-equilibrium is far too serious to allow our society to become static.

"It is precisely in this situation that lawyers, of all people, should steadfastly do all within their power to retain much that is good and necessary in our legal system.

"It makes no sense to jettison the good of the one we have because we cannot have the best that we may desire," he said.

No action planned over lawyer who criticised Appeal judgement

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Star 19/5/88

By Tim Cohen

The Bar Council will take no action against a Johannesburg advocate, Mr Edwin Cameron, who sharply criticised the Appeal Court for upholding the death sentence on the "Sharpville Six".

Lawyers believe the move reaffirms the public's right to criticise judges.

A Sunday newspaper article written by Mr Cameron on the Sharpeville Six case was referred by the Judge President of the Transvaal, Mr Justice Moll, to the Bar Council at the request of the Appeal Court, with a view to possible disciplinary proceedings.

As is usual, no reasons for the Bar Council decison were given.

In an address at Wits University this week, the incident was analysed by Professor Etienne Mureinick who concluded that it was in the interest of good judging itself that judicial decisions are the subject of "candid and vigorous public debate".

Mr Mureinik, who was speaking on the topic of law and morality, said shortly after the article was published, Mr Cameron, in an interview with a British journalist, suggested that the judgment in the case represented a widening of the doctrines of criminal liability "in response to evidence of township revolt".

Opening the first national Bar Conference in Cape Town, the Acting Chief Justice, Mr Justice Rabie, made remarks which may be understood as

Mr Edwin Cameron
. . . .newspaper article
on Sharpville Six

saying that Mr Cameron's suggestion was little short of shocking and disgraceful, Mr Mureinik said.

Some lawyers would conclude that Mr Justice Rabie's comments at the Bar Conference were unjudicial, he said. "But that conclusion would rest upon a doctrine which has been fostered, more than by any one, by judges themselves.

"It is the doctrine that says it is wrong for judges to enter upon public controversy; in particular that they should abstain from extra-judical comment on questions pertaining to issues which might arise in suits brought before them."

However, Professor Mureinik said the Acting Chief Justice deserved congratulation for making the intervention because, he said, "the doctrine of judicial uncontroversiality is a dangerous one".

"Judges are not mere private individuals they are the third arm of Government, and in them there reposes a power nothing short of political.

"Every member of the community has a right to say whether he or she approves of the way in which judges are exercising their power and 'what the community may assail the judges may justify'.

"By making the comments that he did at the Bar Conference, the Acting Chief Justice committed himself to the proposition that judges should not consider the public fray beneath their dignity"

The Acting Chief Justice's comments may also be taken as an implicit affirmation of the legitimacy of criticising judges, Professor Mureinik said.

And no judge of stature could properly be taken to be claiming a right of reply without conceding a right to speak, he added.

"As such Mr Justice Rabie's response was timely and welcome, especially because some of the other responses to Mr Cameron's views may be taken as contesting the legitimacy of expressing them."

Professor Mureinik concluded that scrutinising judicial performance was a "routine scholarly activity in countries with comparable judicial systems and similar academic traditions"

53 face death over politics

DIANNA GAMES

THERE were presently 53 people on death row in SA for politically related reasons, the latest human rights update compiled by Wits University's Centre for Applied Legal Studies said

This includes nine people sentenced to death for the murder of [illegible]cemen, 10 for the murders of [illegible]d police informers, several for the murders of councillors, one for the Marine Parade bombing in Durban (Robert McBride) and three National Union of Mineworkers members sentenced in May 1987 for the alleged murder of team leaders at Vaal Reefs.

SHARPEVILLE SIX DEATH PENALTY TRIAL TO REOPEN

PRETORIA — Defence counsel for the "Sharpeville Six" has applied successfully for a reopening of their trial, and argument against the death sentence will be heard by Mr Acting Justice W J Human in the Supreme Court on June 6.

The six — five men and a woman — have won two temporary reprieves from the gallows since March 17. They were sentenced to death for the murder of Lekoa deputy mayor Kuzwayo Dhlamini on September 3, 1984, by a mob of residents angered by rent increases in the township.

The reopening of the trial follows defence counsel replies to an answering affidavit by the Transvaal Attorney-General handed to the court on April 25.

Attorney for the six, Prakash Diar, applied for a reopening of the trial after new evidence surrounding the circumstances of Dhlamini's death came to light. — Sapa.

Political comment in this issue by Ken Owen Newsbills by Trevor Bisseker Headlines and sub-editing by Michael Moon All of Times Media Ltd, 11 Diagonal Street, Johannesburg

WEEKLY MAIL, May 20 to May 26, 1988

Why the death penalty deserves no mercy

The case against execution is that there is always a possibility of judicial error. And in South African circumstances, those errors can multiply. JO-ANN BEKKER reports on calls this week for abolition

A YOUNG man was sentenced to death some years back for helping to ambush and murder a powerfully-built man. The judge refused him the right to appeal against the conviction.

His family scraped together funds to enlist a new lawyer to fight for an appeal. When he went to see his client the lawyer noticed the condemned man had crippled feet and deformed hands — a fact which had apparently escaped the notice of his previous lawyer and the trial court.

The Appeal Court acquitted the man unconditionally, without even requiring legal argument

This example of judicial error was cited by Jules Browde SC, national president of Lawyers for Human Rights, to underscore the inherent dangers of capital punishment — a system he described as "a relic of barbarism which should not be tolerated in a civilised society".

Browde was addressing a meeting in Johannesburg this week called to revive public protest against the death penalty He appealed for a judicial enquiry into the system of the death penalty. Browde reiterated demands that the death sentence should not be mandatory for murder where there were no extenuating circumstances.

Sheena Duncan, vice-president of the South African Council of Churches, called for a moratorium on all pending executions.

University of the Witwatersrand law professor John Dugard, who chaired the meeting, said calls for an end to capital punishment could be examined from a universal perspective — whether the death penalty acts as a deterrent; whether it debases the system of justice — or from a peculiarly South African perspective

He said allegations that "judicial attitudes towards race" were a factor in the passing of death sentences had resulted in the prosecution of an outspoken South African abolitionist, Barend van Niekerk.

But, Dugard argued, "studies have shown the racial factor is an influence in the application of the death penalty in the United States. There is no reason to believe South Africa will be different."

In South Africa, he said, the possibilities of judicial errors when those on trial were black were greater:

- Trials were held in English or Afrikaans, not in the accused's own language — and there was always the possibility of faulty translations
- The present system of granting a person facing the death sentence an advocate *pro deo* was inadequate

Browde added that often a young advocate's first appearance in court was *pro deo* — when the lawyer was not well acquainted with court procedure and was not skilled in cross-examining witnesses "In those cases much is left to the individual judge to do his best to see justice is done."

In addition, Browde said there was no provision of *pro deo* attorneys to research the background of the case. This was essential in convincing the court that there were extenuating circumstances.

- There was no automatic right of appeal against the death sentence.
- The application of the death penalty was "arbitrary". "It is an open secret," Dugard said, "that 'hanging judges' often ignore extenuating circumstances, while 'non-hanging judges' always find extenuating circumstances."

He referred to the difference between the death sentences passed down to six Sharpeville residents and sentences of three-and-a-half years allotted to members of Inkatha last week "for murder in not vastly dissimilar circumstances".

Dugard said many South Africans were "punch drunk and feel we can do nothing in our society, that the present regime is too powerful"

But he said the example of Van Niekerk, a lawyer who had dedicated himself to the abolitionist cause, proved otherwise.

"When he began his campaign (in the late 1960s) the annual execution rate was about 100. Within a few years it had dropped to 61 per annum." After his death the number of executions rose again, reaching an all time high of 164 last year.

Duncan said 59 people had been executed this year. All were men — 44 were black, 14 "coloured" and one was white. On May 5 there were 274 people on death row — "We do not know who most of them are."

"Individuals can play an important role — if not in abolishing the death penalty, at least in helping to reduce the number of executions," Dugard said

- The application for the re-opening of the "Sharpeville Six" trial will be argued in the Pretoria Supreme Court on June 6

The six were sentenced to death for having common cause with the unknown killers of Sharpeville councillor Khuzwayo Dlamini who was stoned and burnt to death on September 3 1984. They were granted a stay of execution and leave to apply for a retrial one day before they were due to hang, on March 17.

- More than 100 petitions are circulating in the Witbank area, appealing to President PW Botha to grant clemency to two policemen, East Rand Murder and Robbery Squad Unit head Captain Jack la Grange and Brixton Murder and Robbery Squad detective Robert van der Merwe, who were sentenced to death for murder.

The petitions say the double death sentences should be set aside because they had "exterminated drug smugglers who were a cancer in society".

30 cents

30 cents

20 cents

Civil servants promised pay 'rewards'

Cape Times 20/5/88 (250)

Political Staff

PUBLIC servants — denied general salary increases this year — were yesterday promised that they would be well rewarded for their sacrifices in the next financial year by the Minister of Administration and Privatization, Dr Dawie de Villiers

Speaking in Parliament during his budget vote, Dr De Villiers said the Commission for Administration had already started a process of discussions and negotiations with the various staff associations

He emphasized that the government is regarding a general salary increase as a high priority that would not be considered as a "budget afterthought"

Dr De Villiers said the extent of the increase would be determined by the financial circumstances and the state of the economy, adding that he was optimistic these issues would not present any problems

He said this year's salary freeze should not be viewed as an indication that government was neglecting the importance of the civil service but was for the longer-term interests of the country

At the same time Dr De Villiers warned that the continued growth of the public sector could no longer be tolerated and it would have to be stopped

He noted that the public service personnel complement has grown by 10,5% from 650 000 to 718 000 in the past year, partly as a result of the assimilation of personnel from the developments boards and other parastatals.

Excluding these additions, growth would still have been about 7,2% which was still too high, Dr De Villiers said

He said a total freeze has been put on all further recruitment until all public service functions had been properly reviewed

An investigation was now under way to effect a major cut-back in the public sector establishment. The first step, now completed, was the identification of vacant posts Dr De Villiers confirmed that this had already led to some 6 000 posts being abolished

He said the next step would be to abolish all authorized posts which were vacant and which had not been budgetted for A cabinet decision has already been taken on this.

Dr De Villiers said all other vacant posts in the public service would be thoroughly examined after six months. Unless strong motivation was provided for their retention they would also be abolished

He stressed that essential services, the protection services, education and justice were excluded from this major rationalization.

Talks to end strike

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NEGOTIATIONS to end work stoppages at five Amalgamated Beverage Industries' plants — bottlers of Coca Cola — resumed yesterday between the company and workers' representatives.

About 2 500 workers are on strike at ABI plants in Midrand, Pretoria, Devland and Durban (two factories). They are protesting against a new distribution system introduced in a Durban plant which they claimed, would result in redundancy of a number of employees.

Mr George Nene, an official of the Food and Allied Workers' Union said the company had earlier warned workers to return on Thursday or face legal action.

He said the company had undertaken to withdraw legal action and "scab" labour if the strikers resumed duty.

ABI managing director, Mr Alex Reid, said this week that management, assisted by casual workers, "had done their utmost to meet trade requirements."

20/5/86

Sowetan

Vlok: Boesak doesn't like SAP

D/P 20/5/88

CAPE TOWN — The moderator of the Nederduits Gereformeerde Sendingkerk, Dr Allan Boesak, did not want any of his chaplains to serve in the police force, the Minister of Law and Order, Mr Adriaan Vlok, said yesterday

Mr Vlok said, during the debate on his vote in the House of Representatives, that Dr Boesak did not like the police and did want any minister from his church to join the South African Police

The minister said the police did not want to complicate any minister's career by appointing him a police chaplain, but added that progress had been made towards appointing "coloured" and black chaplains — PS

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'Special cops' arrest 11 000

Times 22/5/88

By SYBRAND MOSTERT

THE number of special constables trained and deployed will soon reach the 5 000 mark, said Law and Order Minister Adriaan Vlok.

Addressing a passing-out parade of special constables at Koeberg on Friday, he added that during the past year they had been responsible for more than 11 000 arrests

Only 35 of these had been for offences committed in terms of the emergency regulations

A suggestion had been made that the name "special constables" be changed to "community police" because the constables "serve their communities so well," he said.

Pride

He and the Commissioner of Police were considering this suggestion

Mr Vlok said the SAP cherished the pride that the majority of South Africans of all races had in the police force despite a small minority who constantly tried to tarnish the good image of the police.

- The deployment of the special constables has aroused criticism in Opposition quarters. Since their inception, a number of them have been charged with various criminal offences

No new trial yet for the Six

THE Justice department has reacted to incorrect reports in a number of newspapers that the defence counsel for the Sharpeville Six had successfully applied for a re-opening of their trial and that argument against the death sentence would be heard by Judge WJ Human on June 6.

A Department of Justice spokesman, PA du Rand, said: "The actual position at present is that the trial judge has given permission that argument be presented for the possible re-opening of the trial.

"At this stage the defence counsel as well as the Attorney-General have lodged affidavits in this regard, and June 6 has been set aside as a date on which argument by the defence counsel and the A-G's representation regarding the question of the re-opening of the trial will be heard."

22/5/88 (252) Pretoria

Six: 'aspects not addressed'

ROGER SMITH

THE Appeal Court ruling which upheld the judgment and death sentences passed on the Sharpeville Six failed to address several crucial aspects of the defence case, advocate Edwin Cameron, of the Wits' Centre for Applied Legal Studies, said at the weekend

He said as a result one of the six, Oupa Diniso, 30, might be executed for a crime he did not commit Furthermore, in the case of all of the six the Appellate Division had rejected without explanation its own precedent on the question of limited participation, set in the Maureen Smith murder case appeal

Cameron, who it emerged last week would not have action taken against him by the Bar Council for earlier criticism he had voiced of the Bench, was speaking on the judiciary at a Black Sash conference in Johannesburg

He highlighted two specific aspects of the case of the six, who are under a stay of execution and awaiting the outcome of an application for their case to be re-opened as a result of new evidence.

☐ Firstly, in the case against Diniso, Cameron said, he was convicted and sentenced to death because, apart from lying as to what exactly he said to the police at his home, he was unable to give any explanation as to why another of the six, Majalefa Sefatse, 30, could have been able to point him out as the person in possession of the pistol which was taken from the murder victim, Lekoa deputy mayor Kuzwayo Dlamini

☐ Secondly, Cameron said, the Appeal Court's attention was specifically drawn by lawyers for the six to its own decision concerning the chauffeur in the Smith case. His lesser participation in the murder was a ground for extenuation which allowed him to escape the death penalty.

International jurists slam SA legal system

Argus 26/5/88

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From MICHAEL MORRIS
The Argus Foreign Service

LONDON. — The rule of law in South Africa has been undermined and basic human rights destroyed by the Government's extension of the State executive power.

This is the conclusion of four lawyers who visited the country early last year to review the legal system and the state of human rights for the International Commission of Jurists

Censorship

The lawyers also claim that the majority of South African judges have failed in security-related cases to exercise their "choice in favour of individual liberty".

The four men — British solicitor Geoffrey Bindman, Swiss advocate Jean-Marie Crettaz, Irish barrister Henry Downing and Professor Guenter Witzsch of the University of Munster, West Germany — say they travelled freely in the country, "but many of those who talked to us clearly did so at some personal risk"

Their report, published this month as a book entitled *South Africa And The Rule Of Law*, covered a broad range of issues, including censorship, freedom of movement and association, trade unions, the homelands, the judiciary and the security system

The book concludes "As long as the apartheid system survives, the future for human rights and the rule of law in South Africa is a bleak one."

There had been "an uncompromising assault on extra-parliamentary opposition, regardless of liberal and humane values"

Human rights abuses, including intimidation, torture and interference with legal processes by the security forces, are highlighted The report rejects the claim that these actions are justified on security grounds

The report's final assessment of the judiciary and the role of the judges says "We were impressed by the assurances by the judges that they would in no circumstances be prepared to accept instructions from the Government."

Repressive

But they conclude "We were not impressed by the argument that the judges were powerless in the face of Government restrictions in the security area.

"If a judge remains on the Bench in such a repressive regime there can be no excuse for failing to exercise his choice in favour of individual liberty, and whereas some judges have done justice in such cases in recent times, the majority of the South African Bench has failed to do so

"We feel it is as a result of this failure that the South African judiciary is open to the criticism of fellow jurists in other countries"

Riot police to hang for murder

ARGUS 26/5/88

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From PAT CANDIDO
The Argus Bureau

GRAHAMSTOWN — Two riot squad policemen were today sentenced to hang for the murder of an 18-year-old youth in Cradock last year.

Warrant Officer Leon de Villiers, 37, and Constable David Goosen, 27, were yesterday convicted of murdering Mr Mlungisi Stuurman on the banks of the Fish river outside Cradock and of attempting to defeat the ends of justice.

They were acquitted of a second charge of murder and two of assault

Mr Justice Zietsman said today he could find no extenuating circumstances

SOBBED

As the death sentences were passed the men's wives sobbed uncontrollably and were comforted by friends and relatives.

Mr Justice Zietsman said Mr Stuurman had not done anything wrong nor had he offered any resistance after he was interrogated in the Cradock township.

He was an innocent man who had been assaulted and then killed.

The decision to kill Mr Stuurman was not sudden but a joint decision by the two policemen to cover the assault on an innocent man.

The judge said counsel for the defence had asked for extenuating circumstances on the grounds that the men worked long and dangerous hours in the townships, surrounded by death and violence, and this had blunted their perceptions and respect for human life.

Counsel had also said that De Villiers had a low IQ and a serious drinking problem which affected his judgment and Goosen's traumatic childhood and dark complexion had resulted in a personality problem which made him willing to do anything for De Villiers

Dr J A d'Oliveira, for the State, said there were no extenuating circumstances. If anything, society demanded a higher degree of responsibility from policemen than other men

They were each sentenced to six months' imprisonment, suspended for three years, on the charge of attempting to defeat the ends of justice.

DRUNKEN OFFICER

Mr Justice Zietsman said he deplored the lack of discipline and control of the unrest unit by its officers

'This lack of control had led to a drunken officer taking a group of drunken teenagers into a township to chase and assault anybody they came across Some had even said they got pleasure from assaulting people.

The judge said a unit which had been established for terrorist control should be highly-trained and strictly disciplined

Mr Justice Zietsman is expected to give judgment later today on an application for leave to appeal.

Lawyers group calls for 'isolation' of bar councils

By GAYE DAVIS, Cape Town

ANTI-APARTHEID lawyers have pledged support for the international isolation of the country's judiciary, bar councils and law societies

They will campaign for prisoner-of-war status for captured guerrillas, and will investigate guidelines for a post-apartheid South African constitution

These are among the resolutions at last weekend's first national annual general meeting of the National Association of Democratic Lawyers (Nadel) in Cape Town

Nadel, which represents about 600 lawyers, said the judiciary and associations of Bar Councils and Law Societies had "either by ommission or action sided with the oppressive regime"

It therefore backed efforts by the international legal community to deny such bodies membership of international organisations

Resolving to work for a non-racial and democratic society in which the judiciary and administration of justice were "truly independent", Nadel said the majority of South Africans did not see the present judiciary as impartial

Other resolutions responded to charges that legal professionals' involvement in fighting apartheid consisted in merely defending its victims rather than struggling alongside them, as the National Union of Mineworkers' general secretary, Cyril Ramaphosa, said at the meeting

The NUM witnessed "with dismay" the March walkout by one of Nadel's member groups, the Black Lawyers' Association (over a constitutional issue), Ramaphosa said "At a time when the Organisation of African Unity is marking its 25th anniversary by reaffirming its resolve to destroy apartheid, comrades in the legal profession are breaking up (their organisation) through walkouts and resignations "

Nadel's strength would grow once every lawyer was also a member of a civic organisation — an activist first and then a lawyer, he said.

In a message, the Congress of South African Trade Unions said "Democratic lawyers must determine what role they are going to play . If we are saying that the legal space is narrowing and that the law has become a weapon for racist tyrannical control, then it is obvious that your part in fighting for justice cannot stop at using your skills to defend the people It is the whole legal system that is geared to protect the interest of the minority oppressors and exploiters

"You need to continuously demonstrate that you are indeed working under protest within a legal and constitutional system that has completely discredited itself in the eyes of the people "

Resolutions taken subsequently pledged Nadel members to future active involvement in organisations, noting that "the role of lawyers is inseparable from the overall struggle against apartheid, oppression and exploitation, as well as the moulding of a future non-racial, non-sexist, unitary and democratic South Africa"

Calling for the abolition of the death penalty and an immediate moratorium on all pending death sentences, Nadel members agreed to support campaigns to end capital punishment.

The organisation called for "all persons driven to take up arms against the South African regime and subsequently captured" to be treated as prisoners-of-war in terms of the Geneva Protocol of 1977, saying it would campaign to achieve this

Another resolution attacked state efforts to undermine the labour movement through restricting the activities of Cosatu and the Labour Relations Amendment Bill

Nadel also called on the "commercial press" to recognise its resposibility to report objectively and accurately, noting that in general, it had "taken sides against the oppressed" and engaged in "irresponsible acts of journalism"

Executive members of the National Association of Democratic Lawyers. Left, Dulia Omar, Plus Langa and Krish Govender Picture ADIL BRADLOW, Afrapix

Mason urges 'social service'

By CARMEL RICKARD, Durban

A SENIOR legal academic has called for the state to start a new scheme which could see lawyers doing their national service in court.

David McQuoid-Mason, dean of law at Natal University, Durban, and an expert on Legal Aid, wants to see a system allowing lawyers and senior law students, called up by the South African Defence Force, to do community service as "public defenders", appearing for people who would otherwise be unable to afford it.

McQuoid-Mason's call follows an announcement by Justice Minister Kobie Coetzee, that the Legal Aid Board budget was to be greatly increased — from R12-million this financial year (already up 33 percent on last year), to R22-million in 1991/2

He welcomed the increase but said he hoped the money would be "creatively used" so that a large slice was spent on defending people charged in criminal cases

At present about 80 percent of the Legal Aid Board budget was spent on civil matters such as divorces and accident claims

By comparison, little money was spent on defence of accused in criminal cases

"Last year the Legal Aid Board granted money for 6 000 to 7 000 criminal cases and in addition the bar did a couple of thousand *pro deo* at no charge.

"Compare this with the roughly 150 000 people who went to jail each year without having been defended by a lawyer at their trials "

McQuoid-Mason said there were ways of reducing the number of people jailed without being represented in court. some petty offences should be decriminalised which could reduce the prison population by about 80 percent, and the state should set up a system of "public defenders"

CAPE TIMES 27/5/88 252

Policemen to hang for murder

Own Correspondent

PORT ELIZABETH. — Relatives sobbed bitterly in a packed Grahamstown Supreme Court yesterday when two former members of the unrest unit were sentenced to death for the murder of an 18-year-old youth at Cradock during July 1986.

Earlier, Mr Justice Zietsman had found that Warrant Officer Leon de Villiers, 37, and Constable David Partick Goosen, 27, had jointly decided that Mr Mlungisi Stuurman had been too badly assaulted to release or detain, and that he would have to be "taken out" (killed).

Though Const Goosen had done the actual shooting, he found that they were both responsible, and found both guilty of murder.

He also convicted them of attempting to defeat the ends of justice by persuading other members of the unit to give a false account of the shooting.

Mr Justice Zietsman rejected the defence argument that both accused had had their susceptibilities blunted by long and stressful duty with the unit among murder, death and violence in the townships to the extent that the value that they placed on human life had been lowered.

He rejected that low intelligence and alcohol addiction amounted to extenuating circumstances for De Villiers or a dependant personality resulting from a traumatic childhood and problems of a dark complexion for Goosen

He found that alcohol had not affected De Villiers' judgment, and though his intelligence was below average, he was a trained and experienced policeman.

He said that there was no evidence that Goosen was influenced by De Villiers.

Mr Stuurman had offered no resistance and gave no provocation. Witnesses said he was an innocent person who had been unlawfully arrested. The accused had killed him to conceal their own unlawful assault on him, and the court could find no circumstances that reduced their moral blameworthiness.

Mr Justice Zietsman sentenced them to six months each, conditionally suspended for three years, on the attempting to defeat the ends of justice charge.

Addressing the court on behalf of the accused, Mr C Jansen SC said that they both felt "bitter remorse" for having assaulted and allowing Mr Stuurman to be assaulted.

They appreciated that this assault had led to Mr Stuurman's death

He said having found that there were no extenuating circumstances, the court had no alternative but to sentence them to death for the murder.

He granted indemnity to the three state witnesses who had been warned as accomplices — Constables R Fourie, M D Nevelling and M P A Booyens.

Drinking spree, followed by a 'panel-beating' for victim ...

Death for police two who 'took out' a suspect

TWO Port Elizabeth riot policemen were yesterday sentenced to death for "panel beating" and then "taking out" an 18-year-old man while on duty in the townships of Cradock.

Warrant Officer Leon de Villiers and Constable David Goosen were convicted of murdering Mlungisi Stuurman by taking him to a river outside Cradock and shooting him through the back of the neck.

Passing judgement, Mr Justice N Zietsman said De Villiers and Goosen had earlier assaulted Stuurman so badly that they decided he would have to be "taken out"

The court had heard that after Stuurman had been given his second beating at Cradock's sewerage works — the first took place in the unit's vehicle — De Villiers said he had been so badly "panel beaten" he would have to be "taken out".

Justice Zietsman ruled there were no extenuating circumstances which left him no choice but to impose the death sentence He refused both men leave to appeal.

Defence counsel, Advocate C Jansen SC, had earlier argued that in De Villiers' case, drink coupled with his below average IQ should be considered as extenuating circumstances

Constable David Goosen in court this week ... no right to claim that De Villiers influenced him

PETER AUF DER HEYDE reports from Grahamstown

Justice Zietsman rejected this and the defence argument that both men faced violence and death daily and did not see these things as others did.

He said Goosen played an active part in deciding to kill Stuurman after he had been assaulted and could not claim De Villiers had influenced him.

Reviewing evidence presented during the trial, Justice Zietsman said Goosen and De Villiers, both members of the Port Elizabeth unrest squad, had been sent to Cradock to monitor the funeral of an ANC member held on the July 26 1986

The unit, under De Villiers' control, arrived in Cradock the night before the funeral. They began drinking liquor they had confiscated in shebeens in PE's townships. and by midnight all, except Goosen who did not drink, were drunk.

Later they heard a radio report of stonethrowing in the township and De Villiers decided to send his men in to "curb unrest."

De Villiers, who admitted in court that he was drunk at that stage, decided it would be easier to catch the stonethrowers patrolling on foot.

The judge said De Villiers had ordered his unit to take "moering tools" into the township He said the state had proved beyond any reasonable doubt that Goosen had stabbed a person during the operation.

The state, however, was unable to prove that the man he stabbed was in fact killed. Both men were therefore acquitted on one of the murder counts and two charges of assault.

Justice Zietsman said the unit had entered the township again the next day and continued their "unlawful" acts. They had arrested a number of innocent people including Mlungisi Stuurman, 18, who was sitting in the yard of his father's house.

Goosen and De Villiers admitted assaulting Stuurman and saying he needed to be "taken out" but said they meant he should be taken out of the township to have his face washed

After taking Stuurman to a river Goosen and two others took him to the water edge where he was shot through the back of his neck.

Goosen had told the court the gun had gone off by accident after he was

●To PAGE 2

●From PAGE 1

as sentence was passed, but their wives began sobbing hysterically. A number of court orderlies also began crying and relatives and fellow policemen embraced them as they were led away.

Before sentence, Jansen argued that the two convicted men sincerely regretted assaulting Stuurman and allowing others to assault him They conceded that the assaults had ultimately caused Stuurman's death.

For nearly two years they had woken every day with a "sword" hanging over them and this had severely influenced their lives and those of their wives.

He said De Villiers had lost a lot of weight and his wife's hair had turned completely grey during the trial.

They stood impassively in the dock

CAPITAL PUNISHMENT 252

A slight shift

Although government seems unlikely to yield to increasing pressure to abolish capital punishment, indications are that judges may soon be given a more formal role in advising the State President on the granting of clemency in cases where no extenuating circumstances are found PM 27/5/88

In particular, the sentencing to death for certain crimes of ANC insurgents and people convicted of politically-related offences committed in unrest situations in black townships, has raised the issue to the level of heated political debate

The "Sharpeville Six" — still living in the shadow of the gallows — and the accused in at least two other major "political" trials currently underway, have re-focused world attention on capital punishment in SA

In parliament, PFP justice spokesman, David Dalling, said 164 people were hanged in SA last year and added that since 1974 more than 1 700 had been executed — "which is not a proud record"

Dalling endorsed recent comments by a former Director General of Justice, J P J Coetzer, who suggested greater flexibility be given to the Judiciary, instead of the current mandatory death sentence in certain cases, and an automatic right of appeal

Camerer . . . fresh breeze

Dalling was supported in his call for an inquiry into capital punishment by the PFP's stalwart MP for Houghton, Helen Suzman, who tried, nearly 20 years ago by way of a Private Member's motion, to have an investigation into capital punishment instituted. No one supported her

She pointed out last week that neither she nor Dalling were calling for the scrapping of the death penalty, but merely for an inquiry into its efficacy as a deterrent Suzman said SA is developing a reputation as a country where "punitive hangings" take place An inquiry would allow the whole issue to be considered calmly

"I must say that the thought of 200 people having been hanged in the past 15 months

NSW ERS IN PARLIAMENT

sends shivers down my spine It is a most terrible situation," she said

Support for the PFP line came from Sheila Camerer, the Nat MP for Rosettenville, who said she was personally opposed to the death penalty and doubted whether any harm could be done by re-examining the question from time to time.

Justice Minister Kobie Coetsee seemed unmoved by the PFP's pleas and chose to ignore Camerer's comments

Politically, the situation in SA today is probably far too tense for government to even consider scrapping the death penalty Coetsee said nothing has happened to indicate that the death penalty should no longer be included in the system of penalties available to the Judiciary It was also incorrect to argue that the death penalty is not contributing to "curbing and curtailing crime"

"An inquiry is held if something has occured to justify it," he said

Coetsee stated, however, that the process through which judges are able to give confidential advice to the executive authority when granting of clemency is being considered may be refined and perhaps formalised

"With this in mind, we will consult with the Bench so that we can ensure that we get absolutely refined advice concerning their opinion as to whether clemency can be exercised after no extenuating circumstances have been found," he said

At the present time, this is about the best that abolitionists can expect ■

252 PM 27/5/88

SQUATTERS NOW TOP 230 000

Sowetan 20/5/88

AN estimated 230 000 squatters were living in illegal structures in Soweto, Central Witwatersrand Regional Services Council chairman Mr Gerrit Bornman said this week.

Speaking at the RSC's monthly meeting, he referred to the "tremendous problem" faced by the authorities and said a conservative estimate was that more than 5,5 people were living in each sqautter home.

A total of 39 860 structures had been counted in Diepmeadow (7 239), Mshenguville (2 500), Macdonald's Farm (900), Fred Clarke (600), Dlamini 1 and 2 (588), Dlamini 3 (360), Tladi emergency camp (500), Orlando East (21 000), Protea South (803), Racecourse (870), Dobsonville (2 300) and other areas (2 200)

There were an estimated 2 650 sqautter structures in Alexandra — an increase of 150 since the last count

An information item on the agenda spelt out the powers which have been transferred by the Government to provincial administrators

These are listed in a draft Bill amending the Illegal Squatting Act of 1951.

Emergency camps may be established or closed down by the authorities on public or private land

Building standards may be waived and only safety standards will be enforced

In certain transit camps even the health laws may be suspended if necessary.

Land for controlled squatting — so-called designated areas — will eventually be established on a permanent basis, but, initially, provisions under the Slums Act, township planning, building standards, township establishment and building stand

IT'S ALL IN THE HEAD

INNOVATIVE hair styles are on view at an Orlando East cultural club function. Showing theirs are Hazel Mthethwa (left) and Nokuthula Khumalo.

Diepkloof rent talks

Sowetan 20/5/88

By MOKGADI PELA

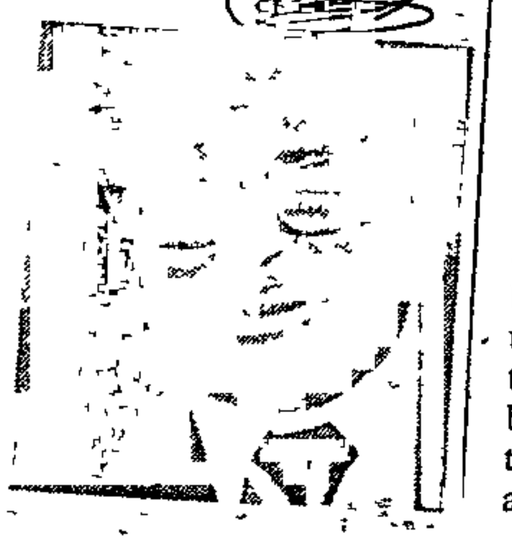
REPRESENTATIVES of various zones in Diepkloof will meet on Sunday to consolidate their views following a meeting called by Mr David Thebehali early last month to resolve the rent crisis.

At the meeting which was held outside the Diepkloof Hall because of a large turn-out of residents, Mr Thebehali, who is also the administrator of Diepmeadow, called on the residents to pay the amounts they had been paying before the rent boycott.

Mr Thebehali also said that the arrears could be paid off over a five-year period. The instalment would be agreed between the resident concerned and the council, he said

Mr Muntu Myeza, co-ordinator of the residents' meetings, said: "What has been happening is that the various zones in Diepkloof have held meetings to discuss proposals to the resolution of the rent dispute"

"Presently, all but one have discussed this issue Zone 4 residents will hold theirs on Saturday," Mr M



THE SHARPEVILLE SIX

Should privilege fail?

Last week, a trial court judge decided that argument would be heard on the issue of whether to re-open the trial of the Sharpeville Six

Coinciding with this, an article has just been published in the *South African Law Journal* strongly critical of the decision in that case (State v Safatsa).

Although most public criticism of the case has focused upon the use of the doctrine of common purpose to secure convictions, there was another central issue in the case which the article deals with.

The relevant background is that during the trial, the State called a witness, one Manete, who gave an eyewitness account of the events outside the deceased's house (the case is about the murder of the deputy mayor of Lekoa in September 1984), in which he implicated two of the accused.

During his cross-examination the trial took a new turn when counsel for the accused informed the court that a statement made by Manete to his attorney for the purpose of obtaining legal advice was in his possession The trial judge, however, refused to permit cross-examination of Manete on this statement

The issue which the Appellate Division had to decide was this is the right of an accused to have all the evidence relevant to the proof of his innocence put before the court stronger than the right of a witness to keep relevant evidence from the court because it consists of a statement made to an attorney in circumstances where legal professional privilege normally applies?

Appeal Court Judge Botha's judgment proceeded from the premise that the privilege is a client's fundamental right and "any claim to relaxation of the privilege must be treated with the greatest circumspection" He found that insufficient information had been placed before the trial judge to enable him to exercise a discretion in favour of the accused

What the article — written by David Unterhalter, formerly a lecturer in law at Oxford University — argues is that, through placing too much importance on the privilege, the judge reached a decision which offends against our sense of justice

He argues "We allow the privilege to exclude relevant evidence only in the cause of promoting those general features of an adversarial trial process which we believe assist truth-finding by the court." On this view, Botha JA's conception of the privilege as a fundamental right fails for two reasons Firstly, because this conception doesn't fit into the existing structure of rules dealing with the privilege. More important is the fact that the privilege is only one aspect of procedural fairness

"No principle is more integral to our conception of a fair trial than the right of an accused person to prove his innocence . Where relevant evidence is available to the defence going to the proof of innocence, as a matter of principle, an accused has a fundamental right to have this evidence put before the court, a right which cannot be abridged by a prosecution witness claiming the privilege The right is fundamental because it appeals to the foundational principles of our trial process. rationality and justice"

Unterhalter criticises the idea that the trial judge must carefully test the weight of the defence claim to cross-examine to decide whether relaxation of the privilege is warranted

He notes "The right to the proof of innocence is not a claim of degree If the cross-examination goes towards the proof of innocence, the requirements of rationality and justice underlying the trial require that the accused be given every chance to make out his case There is nothing to weigh here because the accused's rights are conclusive."

He concludes. "Our courts should not countenance putting the innocent at risk by denying defence counsel the right to cross-examine in these circumstances, not least where the accused face capital charges. That is why Safatsa is a gravely wrong decision"

Indeed, if the accused do enjoy a retrial, these arguments ought surely to enjoy considerable persuasive value in the reasoning of the court ■

'Rights eroded'

(252)

Sowetan 27/5/88

LONDON — Rule of law has been undermined and basic human rights destroyed in South Africa by the extension of the executive power of the State by undemocratic government.

This is the conclusion of four lawyers who visited the country early last year to review the legal system and the state of human rights for the International Commission of Jurists

The four-man mission from the International Commission of Jurists — British solicitor Geoffrey Bindman, member of the Geneva bar, Jean-Marie Crettaz, Irish barrister Henry Downing and Professor Guenter Witzsch, of the University of Munster, West Germany — visited South Africa early in 1987.

GETS DEATH

29/5/88 C/Press

Wives, orderlies in tears as killers are led away

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CP Correspondent

TWO white policemen convicted of the murder of a Cradock youth were yesterday sentenced to death by the Grahamstown Supreme Court.

Judge Zietsman found that there were no extenuating circumstances.

Constable David Patrick Goosen and Warrant Officer Leon de Villiers were sentenced to death for the murder of Cradock activist Mlungisi Stuurman

In his judgment, Zietsman said three factors needed to be taken into consideration

- Whether there were any facts or circumstances that could have influenced the convicted men to commit their crime
- Whether the circumstances did, in fact, influence them
- And whether the circumstances reduced the moral blame-worthiness of the convicted men

He found that in De Villiers' case, liqour, as had been argued by the defence, did not contribute to his conduct

The judge also ruled that the fact that the dead man wore a Cradock Youth Congress T-shirt, which the defence claimed was seen by both accused as symbolising a terrorist organisation, could not count as an extuanating circumstance

The court found that the decision to kill Stuurman had been taken not only by De Villiers, but also by Goosen

Even if De Villiers had been a father figure to Goosen, as claimed by the defence, this could not be taken as an extenuating factor, the judge said.

Before sentence was passed, the defence said both accused regretted what they had done

C Jansen, SC, said they were aware that the policemen's beating of Stuurman ultimately led to his death, but, he told the court, both accused had, for nearly two years, walked with a sword hanging over their heads and that should be taken into consideration when passing sentence

On the charge of attempting to defeat the ends of justice, the jugde said the offence was made worse by the fact that both men were policemen

He, however, felt that a suspended sentence would be enough and sentenced them to six months' imprisonment, suspended for three years

Goosen and De Villiers stood emotionless as they were sentenced but their wives started sobbing hysterically and even court orderlies started crying

After the judge had left the courtroom, Goosen and De Villiers were embraced by relatives and fellow-policemen before they were led away

Argument for leave to appeal was expected to be heard late yesterday

Earlier this week, Goosen laughed when he was told that Wednesday was the 77th day he would be appearing in court, saying 77 was his lucky number

Less than two hours later he was found guilty of murder He sat grim-faced as Judge Zietsman convicted him

The judge said Goosen and De Villiers had participated in what could only be described as a "beating expedition" (slaan ekspedisie)

After being sent to Cradock to monitor the funeral of an ANC member, a unit of the unrest squad under De Villiers went into the township one night and assaulted people indiscriminately

A packed courtroom, filled mainly with policemen, heard Zietsman say Goosen and De Villiers were unreliable witnesses who had not shown any cause why State witnesses should not be believed

He said Goosen had changed his story as it suited him and there had been discrepancies between evidence put to the State witnesses on his behalf and his evidence

De Villers, who on Monday had to be taken to hospital after suffering a suspected heart attack, sat silently and showed no emotion as the judge convicted him

Arguing in mitigaion, the defence said as both

David Patrick Goosen

policemen came into daily contact with violence, murder and death, violence no longer had the same meaning to them as to other people.

Advocate Jansen said the drink, combined with the below average intelligence of De Villiers, had proved a factor in De Villiers' decision to tell Goosen to shoot Stuurman.

The Attorney-General of the Eastern Cape, Dr J D'Oliveira, said that De Villiers had himself admitted that he was not under the influence of liquor and that it could therefore not be an extenuating circumstance

As to the first factor, he said it would be a "pitiful" (jammerlik) day, if such factors would be taken into consideration – Ano

INSTITUTE OF PERSONNEL MANAGEMENT*

Address:
P.O. Box 31390, Braamfontein 2017

Phone:
(011) 33 96411

or
4th Floor, West Lobby, Libridge, 25 Ameshoff Street, Braamfontein 2017

Director:
Wilhelm Crous

Enquiries:
Wilhelm Crous

Phone:
(011) 33 96411

Aims and Objectives:
It is the aim of the Institute to influence and assist in the development and utilisation of the country's human resources in the interest of the South African community as a whole, including the promotion and development of the highest standards of competence and ethnical conduct amongst the members of the Institute.

Facilities and Resources:
Library: Approximately 1,000 books (members only)

Current Programmes:
Sponsorship of the MBA (Manpower) Programme at the University of Stellenbosch.

Services Offered
Annual Convention
Training Courses: Personnel Administration, Recruitment Selection, Industrial Relations, Training, Manpower and Career Planning.

Mailing Facility:
Books and audio-tapes on personnel and management in general.

Periodicals
IPM Journal - monthly

(3) (a) Foundations were underpinned

(b) The Department

(c) August 1985

(d) The buildings were made structurally sound

Mariannridge. provision of housing

10 Mr C J KIPPEN asked the Minister of Local Government, Housing and Agriculture

(1) Whether his Department is responsible for the provision of housing in Mariannridge Phase 1, if so, to what extent,

(2) whether any houses originally provided in this area by his Department are for sale at present, if so, (a) how many and (b) in respect of what date is this information furnished,

(3) whether the State intends to guarantee the safety of these housing units after the date of sale, if not, why not, if so, for what period?

The MINISTER OF LOCAL GOVERNMENT, HOUSING AND AGRICULTURE

(1) No

The Department is only responsible for the administration of the housing in Mariannridge Phase 1 which was provided by a former Department

(2) (a) Although the Department did not erect these dwellings, there are 604 units for sale in Mariannridge Phase 1

(b) 15 April 1988

(3) No, all housing units are sold "voetstoots" and the State does not provide guarantees for safety against natural disasters

HOUSE OF DELEGATES

†Indicates translated version

For written reply

General Affairs

Chatsworth new police district

33 Mr K CHETTY asked the Minister of Law and Order

(1) Whether a new police district was established in Chatsworth recently, if so, (a) when, (b) why and (c)(i) how many persons of each race group are employed in this district and (ii) in what ranks are they so employed,

(2) whether any new vehicles have been purchased for this district, if not, why not, if so, (a) how many and (b) at what total cost,

(3) whether he will make a statement on the matter?

The MINISTER OF LAW AND ORDER

(1) to (3)

The necessity for a new police district in this area was identified as a result of the rapid industrial expansion in Chatsworth and vicinity and the increased demands that were gradually made on the South African Police

A new police district has functioned in the area from 1 February 1988 Sufficient members of various race groups serve under the command of the District Commandant with the rank of lieutenant-colonel However, for security reasons I am not prepared to reveal the numerical strength of the district concerned but should the honourable member approach me I am prepared to furnish the information to him on a personal and confidential basis

Sufficient vehicles, including a number of new vehicles, were supplied to satisfy the immediate needs of the district

Offences· prosecutions/convictions

50 Mr M RAJAB asked the Minister of Justice

How many (a) prosecutions were instituted and (b) convictions were obtained in respect of the cases of (i) murder, (ii) culpable homicide, (iii) assault with intent to do grievous bodily harm, (iv) common assault, (v) rape (vi) burglary and housebreaking, (vii) robbery, (viii) theft of vehicles, (ix) damage to property and (x) possession of drugs investigated by the Greenwood Park, Mayville, Sydenham Mount Edgecombe, Stanger, Tongaat Verulam, Chatsworth, Isipingo and Wentworth police stations, respectively, in the 1987 calendar year?

The MINISTER OF JUSTICE

The information is not readily available To obtain it all court records pertaining to the crimes concerned will have to be scrutinised

Fire-arm licences

51 Mr M RAJAB asked the Minister of Law and Order

(a) How many applications for licences to possess fire-arms have been (i) received and (ii) granted since 1 January 1988 and (b) in respect of what date is this information furnished?

The MINISTER OF LAW AND ORDER

(a) (i) 32 202

(ii) 30 290

(b) 31 March 1988

Indian magistrates. Transvaal

64 Mr K CHETTY asked the Minister of Justice

(1) Whether there are any Indian magistrates in the Transvaal, if so, how many, if not

(2) whether he intends appointing Indian magistrates in the Transvaal, if so (a) when and (b) where, if not, why not

(3) whether he will make a statement on the matter?

The MINISTER OF JUSTICE

(1) No

(2) and (3) Magistrates are appointed when vacancies occur from amongst the available candidates on the principles of efficacy and merit and not on a racial basis I am convinced that as more and more Indians join the Department of Justice more of them will become magistrates in the normal course of events

Check on under-15s in cells

5/6/88

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Political Correspondent

A CREDIBILITY contest between the SA Police and the Detainees' Parents Support Committee (DPSC) is set to take place tomorrow.

The DPSC's Dr Max Coleman said in a statement he will take up the offer of the Minister of Law and Order, Mr Adriaan Vlok, to visit police cells accompanied by a magistrate.

The visit has not been finalised, but police expect it to take place tomorrow.

This came about after Dr Coleman challenged Mr Vlok's claim this week that no children under the age of 16 were being held.

Dr Coleman responded with a list of 15 names.

After an investigation, Mr Vlok said that of the 15, seven were older than 16 — one was 25 — six had already been released, one had appeared on a charge of murder, and one was unknown to the police.

Police spokesman Brigadier Leon Mellet said he hoped Dr Coleman went through with his visit, as the police wanted the matter cleared up.

Dr Coleman said his information came from the parents of children who had allegedly been detained.

ne 3 to June 9, 1988

W/Mail 3 3-9/6/88

A breather for Upington 25

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LAWYERS fighting for the lives of 25 Upington residents convicted of killing a policeman will spend the next nine months preparing argument on extenuating circumstances and in mitigation of sentence.

They won the breathing space this week when an application for a postponement until February next year was granted by Justice J Basson

The 25 were convicted on the basis of common purpose — a legal principle, applied in the Sharpeville Six case, which sparked an international outcry.

Judge Basson found that even though most of the accused may not have had a hand in the killing of municipal policeman Lucas Tshenolo Sethwala, the fact they were part of the crowd which stoned his house was enough for him to infer the group's intention was to drive him from the house and kill him.

Attorney Andrea Durbach, in an affidavit supporting the application, said it was "important for the image of this country" and for "the administration of justice as a whole" that the postponement be granted.

The accused, who all pleaded not guilty, range in age from 20 to 60 and include three women.

Sharpeville Six hearing

THE application for the re-opening of the trial of the Sharpeville Six starts tomorrow in the Pretoria Supreme Court

The five men and one woman were sentenced to death by Mr Justice Human last year for the murder of Lekoa mayor Khuzwayo Dlamini.

Earlier this year, lawyers for the condemned six successfully lodged an application for a stay of execution hours before they were due to go to the gallows.

Tomorrow's court arguments will only deal with the question as to whether permission should be given for the trial to be re-opened on the basis of new evidence received in favour of the six.

A spokesman for Mr Prakash Diar, the Sharpeville Six's attorney, confirmed an application will be heard tomorrow.

Times 5/6/88

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More time for 25 cop killers

16/1/88

DEFENCE lawyers won extra time this week in their battle to save from the gallows 25 township residents convicted of killing a policeman.

Judge J Basson yesterday gave lawyers until February to prepare evidence in mitigation of sentence of the 25 from Paballelo Township near Upington.

The case of the "Upington 25" bears similarities to the trial which condemned the "Sharpeville Six" and provoked a storm of protest around the world.

The trial in the remote northern Cape town has provoked controversy as several of the 25 were convicted on the basis of "common purpose" with those who actually killed Const Lucas Sethwala on November 13, 1985.

The 25 – the biggest group ever convicted of murder in a single South African trial – were in high spirits as they waved to the 30 relatives who could find space in the small courtroom.

Aged between 20 and 60, the group includes three women.

Should Judge Basson not find extenuating circumstances in the killing which occured at the height of anti-apartheid riots that swept South Africa, he will be obliged by law to sentence the 25 to death.

Sethwala's murder put Paballelo on South Africa's political unrest map where it had not featured since its foundation in 1960. One of the defendants, Myner Bovu 28, said Paballelo was not a publicised township like others in South Africa.

"We had never had any problems there," he said.

Sporadic outbursts erupted along the township's untarred roads two days before the murder. The unrest was came after the 25 000 residents were told of rent increases. Residents say four people were shot dead by police.

On the day of the killing, about 3 000 people gathered at a dusty soccer field to debate the increase. The judge rejected evidence that residents had been urged by a police officer to assemble at the grounds to discuss grievances.

The meeting was dispersed by police firing teargas and a group broke away from the crowd and ran past Sethwala's house on Pilne Street. The Judge found that Sethwala opened fire after the group began stoning his home to force him out.

Residents say the attack on the tiny red house began after the constable fired on the crowd fleeing from the pandemonium at the soccer field.

The policeman fled his house but was caught by the enraged mob a short distance away, where one of the assailants grabbed his gun and broke it on Sethwala's head, killing him instantly.

They then kicked his body and set it alight.

All 25 had pleaded not guilty but were convicted in April following an 18-month trial. Lawyers are enlisting an array of experts to argue in mitigation of sentence.

The case resumes on February 6. – Sapa

252 B/day 7/6/88

Court argument over 'Sharpeville Six'

EDYTH BULBRING

THE court did not have the jurisdiction to grant the application for the re-opening of the trial of the 'Sharpeville Six' and the matter should be referred to the State President for decision.

This was the state's argument before Mr Acting Justice W J Human in the Pretoria Supreme Court yesterday.

Prosecutor J L van der Merwe said the application for the re-opening of the trial of the six sentenced to death for the murder of deputy-mayor of Lekoa, K Dhlamimi, in September 1984 was based on contradictory statements made by a state witness, Joseph Manete.

Defence counsel said certain witnesses had to be cross-examined to arrive at the truth.

Jack Unterhalter SC submitted there was evidence the police had threatened and assaulted witnesses Joseph Motsumi Manete and Johannes Monguale resulting in them making false statements.

The perjured evidence of the two "has resulted in a fraud having been practised on the trial court by such members (of the SAP), thus constituting an illegality or defect in the proceedings which have caused a failure of justice".

The state argued an applicant who wished to tender further evidence after final disposal of the matter on appeal would have to petition the State President in terms of section 327 of the Criminal Procedure Act.

FOCUS

Spotlight on death sentence as 48 more wait to die

Sowetan 7/6/88

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By ALI MPHAKI

THE case of the Sharpeville Six has focused renewed attention on the death penalty in South Africa, but there are 48 "politicals" on death row at the moment

Over the last 10 years 1 218 people have been hanged in South Africa, with the number rising from 121 in 1986 to 164 in 1987

This has led to a number of organisations calling for a formal investigation into the death penalty in South Africa's legal system

Recently the Faculty of Law of the University of the Witwatersrand (Wits) urged the Government to respond to the disquiet evoked by the alarming increase in hangings over the last 10 years

Another organisation, a brainchild of the now outlawed South African Youth Congress (Sayco) — Save the Patriots Campaign — has called for a broad alliance of "peace-loving" people to fight the executions

According to the organisation, 10 "political" convicts have been executed recently

- Matshape Matsepane and Mankopane Malwasha of Tzaneen, who were executed in December, 1986 for murdering an alleged informer,
- Wehle Webushe of Jansenville, who was executed in August last year for a "necklace murder", Moses Jantjies and Mlamli Mielies of Uitenhage,
- Tshepo Letsoara of Port Elizabeth, for killing an alleged police informer in the township,
- Similo Wonci, Mziwoxolo Makeleni, Ndumiso Sephenuko and Machezuana Menze, who were sentenced to death for killing a farmer and his wife in the southern Cape

The last four were hanged in March this year

Lawyers acting for Bekisizwe Philip Ngidi (20), of Soweto, sentenced to death in June last year for killing a Soweto policeman, said yesterday that on August 23 a date has been set aside for argument for his appeal

Records

According to records of the Save the Patriots Campaign, those currently on death row include

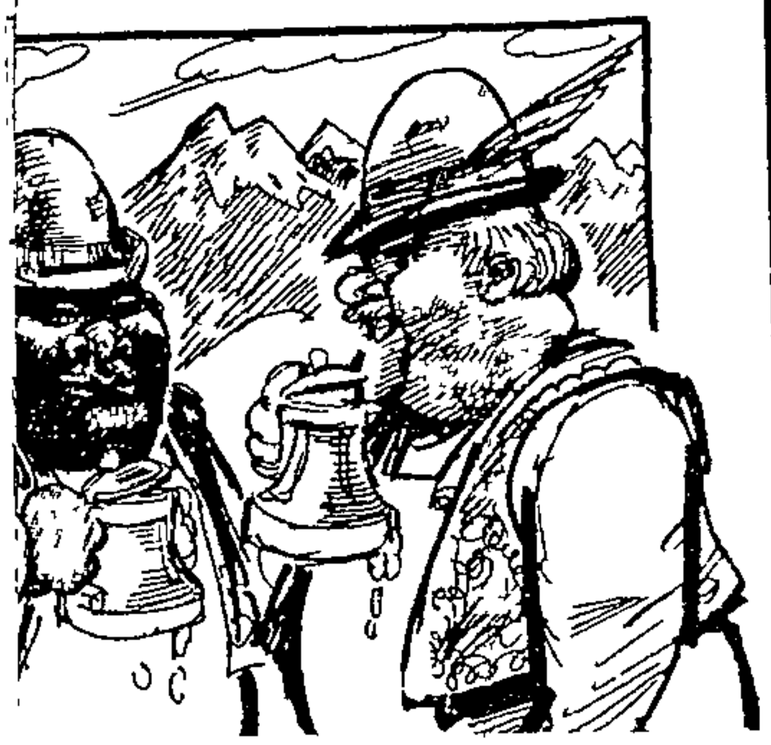
- Dickson Madikane, Desmond Majola and Patrick Manginda from Oudtshoorn, who were sentenced to death in September, 1986 for killing a township councillor,
- Robert McBride of Wentworth, Durban, sentenced to death in April, 1987 for a Marine Parade bombing which killed three women,
- Daniel Maleka and Josiah Tswane of Sebokeng, who were sentenced to death in September, 1986 for killing a policeman
- Oupa Mbonane and Sibusiso Masuku of Soshanguve near Pretoria, who were sentenced to death in August last year for the murder of a policeman,
- Paul Setlaba of Colesburg in the Cape, sentenced to death in December, 1986 for killing an alleged police informer,
- Tyeluboyo Mgedezi, Mangaliso Nongwati and Tsietsi Tsehlane sentenced to death in May last year for killing team leaders at the Vaal Reefs mine,
- Mzwandile Gqueba, Wanto Silinga, Lunki Wana, Thembinkosi Feet, Mzwandile Mninzi and Monde Tingwe of Queenstown,

Policeman

- Joseph Cindi of Tembisa, sentenced to death in September last year for the murder of a community councillor,
- Menzi Tafeni and Ledube Mnyamana, sentenced to death in September last year for the murder of a Burgersdorp businessman's son,
- Mlondolozi Gxotiwe of Port Elizabeth, sentenced to death for the murder of a policeman in September last year,
- Rodney Moloi (24) and Standord Lebepe (24) of Tembisa, sentenced to death this year for killing and setting alight a municipal policeman

They have applied for leave to appeal

- Xolani Stuurman, Gilindoda Gxekwa and Vuyani Jacobs sentenced to death in February this year by the Port Elizabeth Supreme Court for the murder of an alleged informer
- Mxolisi Malgas, Michael Mambukwe and Lulamile Maneli of Grahamstown, sentenced to death in October, 1987 for "necklace murders" in Stutterheim,
- Johannes Maseki (24), of Tembisa, sentenced to death in October, 1987 for the murder of a policeman,
- Mtutuzeli Ngqanda of Uitenhage, sentenced to death in November last year for the murder of a policeman,
- Mzazile Ntombela (30), sentenced to death by the Rand Supreme Court in November last year for the murder of a replacement labourer during a dairy strike,
- Thembisile Baneti (35), of Alice, sentenced to death by the Ciskei Supreme Court last November for the murder of a vigilante, and
- Abraham Mngomezulu (23), sentenced to death in the Rand Supreme Court last year for the murder of a police informer



Lest we forget...

THE *Sowetan* today remembers journalists around the country who are in detention

- Zwelakhe Sisulu, Editor of the *New Nation*, who has been in detention under the emergency regulations for 537 days,
- Brian Sokutu, Eastern Cape freelance

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Seven people executed for murder last week

The Argus Correspondent

JOHANNESBURG — Seven people were executed in Pretoria last week, bringing the number of hangings for this year to 66

According to a spokesman for the Department of Justice, the men executed included a 66-year-old man, Siphiwe Wilson Makhanya, who was convicted in the Durban Supreme Court on two counts of murder

The other six men hanged were Jacob McGregor, 27, Peter Nichol, 26, Vincent Stone, 28, Freddie Booysen, 32, Attie Taylor, 22, and William Cupido, 24.

All six were sentenced in the Cape Town Supreme Court for the murder of an inmate of Allandale prison near Paarl in June 1985

A further seven people on death row last week received notification that they would be executed later this week. The Department of Justice will not release names of these people until after the execution

(252) B/Day 8/6/88

Fraud alleged in case of 'Six'

IF A fraud had been committed on the court it would erode the whole judgment on the "Sharpeville Six", the Pretoria Supreme Court was told yesterday

Arguing for the reopening of the trial in which the six were condemned to death, Jack Unterhalter, SC, for the six, asked the court to bring state witness Joseph Manete to court

The applicants submitted on Monday that there was evidence that the police had assaulted and threatened state witnesses Joseph Motsumi Manete and Johannes Monguale into making false statements

J L van der Merwe, appearing for the Attorney General, argued that once there had been an Appeal Court judgment, the judgment was unalterable and could not be set aside

Mr Acting Justice Human said he would give judgment on Monday

He'll report for service — six years jail, not two years army

10-16/6/88 W/Mail (252)

He is not a pacifist or a religious objector but David Bruce would rather spend six years in jail than two years in the SADF

By KAREN EVANS

DAVID BRUCE considers himself a "normal, ordinary guy". But next month the doors of one of South Africa's prisons will probably clang shut on him for the next six years — and it has been his choice

On July 19 Bruce will appear in court to be charged with refusing to serve in the South African Defence Force

He is the first South African to face six years' imprisonment for refusing to report for his initial two years' service Others have been convicted of refusing to report for camps after they have served their initial period of duty, or their cases have not proceeded as far as Bruce's has If convicted next month, Bruce is scheduled immediately to begin spending what he calls "the best days of my life" with common criminals.

"I am prepared to fight in defence of the people of South Africa Going to jail is like reporting for service."

Bruce wishes to confront young South Africans on the issue of racism "The SADF upholds the system of apartheid, which is racist.

"By taking this stand I am trying to say I am prepared to shoulder the responsibility that falls on young men who sacrifice their lives. I have no contempt for the job that soldiers do.

"By being in the army it can mean death, but I am not trying to avoid this — I accept we must defend our people but I cannot do so under this present system of government"

Since August 1987 he has appeared in court five times and each time his case has been remanded.

Bruce said a staff sergeant who spoke to him at length asked if he was afraid of combat situations and offered him an office job. "I told him that anyone not scared of combat situations is stupid But if I fought for a cause I agreed with, I would harness my fear," he said.

When Bruce was 15 he recalls listening to a conversation at a friends' house about the army and decided he would never serve in an army defending apartheid.

David Bruce: six years jail

After school he attended the University of Witwatersrand. In 1986 he received a call-up for February. "I spent January with the call-up hanging over my head. I had to make a decision."

With the growth of the anti-conscription movement, the law changed in 1984 from two years imprisonment to six years for refusing to do duty. This, he said, reinforced his indecisions.

Leaving the country was not an answer to his dilemma: "By leaving I would be running away from something I am strongly committed to — working to end apartheid."

Bruce would not evade the army as, he said, living with a source of insecurity is something other people got used to but he did not want to spend his life running. His mother, he said, ran away from Germany when the Nazis were in power

Bruce will be imprisoned, if convicted, with common criminals and not with political prisoners "I'd like some contact with other white South Africans — I'd like to see the 'other side'," he said

Bruce will be 31 years old when he comes out of jail. "These are the best days of my life I am blowing away. It is my youth I am losing — when I come out I will be old, but I believe this to be the best option."

When compulsory conscription was introduced, there have been many men who have been faced with the dilemma Bruce faces — either for moral, religious or political reasons. From 1979 to 1983, 13 conscientious objectors were sentenced to periods of imprisonment in detention barracks or jail for refusing to serve in the SADF on political or politically related grounds.

Until 1984 no provision was made for conscientious objectors other than those who belonged to "peace" churches, such as the Jehovah Witnesses. Other objectors were generally sentenced to two years in prison.

Since the Defence Amendment Act, under which men who refuse to serve in the SADF can be sentenced to two-and-a-half times the period normally spent doing service, only two political conscientious objectors have been convicted.

The Board for Religious Objection was set up in 1984 and since then over 1 500 have applied to be classified as religious objectors.

11th hour reprieve from hangman's noose

By JO-ANN BEKKER

AN eleventh-hour stay of execution order has saved Paul Setlhaba, one of 53 people on death row for politically-related crimes, from his date with the hangman today.

The Pretoria Supreme Court yesterday granted 24-year-old Setlhaba — convicted in December 1986 of the "necklace" murder of a woman who broke the Colesburg consumer boycott — two months in which to petition the state president for clemency.

In an affidavit, Indira Kooverjee of the Durban legal firm Roshan Dehal and Associates told the court she had telephoned the Department of Justice and asked for a stay of execution as Setlhaba's previous attorney had not petitioned for clemency She was informed that the department would not halt the execution unless she was granted a court order.

However, the minister of justice did not oppose the application when it came before court.

Setlhaba's previous attorney, H Lala of East London, who said he had been inundated with work, said in an affidavit he had not been informed that Setlhaba's execution date had been set. He said he had not expected the execution to take place so soon after Setlhaba's petition for leave to appeal had failed.

Six other condemned prisoners are expected to be executed today The sheriff of the Pretoria Supreme Court discloses information about hangings only once they have taken place

10/6/88 252 W/Mail

W/Mail 252 p 16/6/88

I'd have killed too, says man behind clemency petition

By PETER AUF DER HEYDE, Port Elizabeth

THE organiser of a petition calling for the pardon of two former riot policemen sentenced to death for murdering a township resident says he would have done the same thing had he been in the same position.

Conservative Party city councillor Danie Dorfling said more than 3 000 people in Port Elizabeth, including "coloureds" and blacks, had signed the petition asking the state president to pardon Warrant Officer Leon de Villiers and Constable David Goosen.

De Villiers and Goosen were last month sentenced to hang for the murder of Mlungisi Stuurman, an 18-year-old Cradock township man.

The court had heard how the two policemen had assaulted — "panel beaten" — Stuurman so badly that they decided he would have to be "taken out".

A former policeman himself, Dorfling said the South African Police were no longer trying to uphold law and order in the township but fighting a "terrorist war".

"The only way to win such a war is to wipe them out. It is not right to accommodate them in the jails of this country. They should all be wiped out," he said.

He said he had helped to build the townships, but during unrest time he would not "even drink the water there, as you never know what they do to you."

Dorfling said he would have done the same thing as De Villiers who, the court heard, had ordered Goosen to kill Stuurman.

He said he wished the judge would sit down with him for "five minutes and forget about his legal books as he has no idea what it is like in the townships".

The petition says De Villiers and Goosen were exposed to extreme violence which they had no part in originating. As a result, their own violence threshold had been lowered.

Dorfling said he had already sent the petition to Pretoria and hoped to distribute it further using his "contacts throughout the country".

"It warms my heart to see so many blacks signing and it would make me very happy if we could give the state president one million signatures."

Dorfling said if President PW Botha refused pardon, he would get the Reagan administration, which had "done the same for blacks when they said the Sharpeville Six must not hang", to petition the state president. He said he was surprised the American government had not already done so. — ANA

Free Mayekiso application turned down

W/Mail 10-16/6/88

By MUSA ZONDI

AN application brought by the defence for the discharge of Moses Mayekiso and his four co-accused was dismissed at the Rand Supreme Court this week.

The indictment against the five Alexandra residents contained all the legal elements necessary for charging them with treason and sedition, Acting Judge van der Walt found

Defence lawyer David Soggot had earlier argued violence was the essential element of treason. Since there was nothing suggesting that the accused had seized Alexandra through violence, the five could not be charged with treason. The indictment, according to Soggot, did not allege any use of violence.

But the court found that a person commits treason when, with hostile intent, he or she disturbs or injures the authority of the state. Violence was a frequent element but not a necessary prerequisite, the judge said, adding "that treason can be committed in peacetime is clear in our case law".

Mayekiso, Paul Tshabalala, Obed Bapela, Richard Mdakane and Mzwanele Mayekiso are charged with attempting to usurp the authority of the state by creating "alternative structures" of "people's power".

All the charges relate to the 1985/6 period during scenes of intense unrest and involving the creation of "people's courts". The unrest was aggravated by a rise in rent which hit most black areas.

The case was postponed until August 1 when the defence case will begin.

Hunger strike ends as both sides agree to deal

W/Mail 10-16/6/88

By GAYE DAVIS, Cape Town

A HUNGER strike by 11 treason trialists protesting against unequal treatment based on racial criteria ended after four days when prison authorities undertook to resolve some of the problems.

The Yengeni Support Group — named after trialist Tony Yengeni, 33, — said in a statement the hunger strike had resulted in certain improvements. However, the trialists had warned that should prison authorities not fulfill their undertakings to meet certain demands, "further protest action would be resorted to".

Prisoners held in the "black male" section were now sharing a communal cell during the day and joint accommodation was being sought for them. Two women trialists, Jenny Schreiner, 31, and Lumka Nyamza, 25, had been seen by an "outside" doctor. The food had improved and the general attitude of warders was more friendly, the statement said.

The trialists began their water-only fast last Tuesday — Republic Day — and ended it on Friday after they were visited by high-ranking Pollsmoor officials. Undertakings were given that some of the problems would be resolved and that the two women would be treated equally.

"Whilst not all their demands have been met, the trialists have called off the hunger-strike and will use this opportunity to negotiate with the prison authorities regarding their demands," the statement said.

The trialists reappear in the Cape Supreme Court on July 5 on charges of treason, alternatively terrorism. They have not been asked to plead.

●Colonel DJ Immelman, liaison officer for the SA Prisons Service, made the following comment:

"The report in your telex dated June 8 1988 stems from a letter addressed to the commissioner of prisons dated May 20 1988 which was received on June 1 1988 in respect of which receipt was acknowledged on the same day and the matter was immediately referred for urgent investigation with a view to providing a comprehensive reply.

"Consequently you will understand that at this stage we are not in a position to comment on the various specific allegations as this will anticipate the findings of the investigation. Furthermore it must be pointed out that the outcome of the investigation will be communicated directly to the party who made the representations as it is policy for the prisons service not to communicate with family of prisoners or their legal representatives via the media. The prisons service expects the same professional approach from the parties concerned.

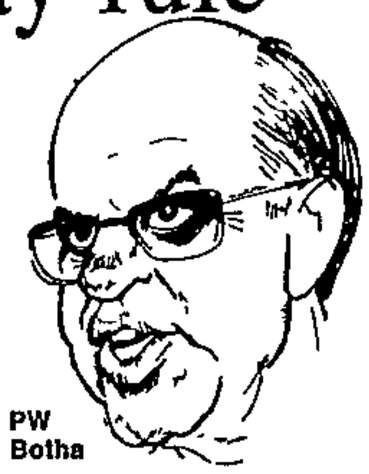
"The Prisons Service has done nothing for the complainants which in terms of prevailing policy does not also apply to other inmates of the same category.

"No negotiation has taken place or will take place and the Prisons Service will continue to administrate prisons professionally and according to accepted norms and standards."

10-16/6/88 (25) W/Mail

Sharpeville Six: A court must rule if a court may rule

The Sharpeville Six will learn on Monday whether their final deadline has been extended again. By JO-ANN BEKKER



PW Botha

THREE months ago President PW Botha washed his hands of responsibility for the "Sharpeville Six", saying he would not interfere with the jurisdiction of the courts

But this week the Pretoria Supreme Court heard argument that only the state president could re-open the trial of the six condemned people

Lawyers for the six Sharpeville residents — sentenced to death for having common cause with the unknown killers of Sharpeville councillor Khuzwayo Dlamini who died on September 3 1984 — launched their application for a reopening of the trial on two fronts

Firstly, they sought to add a special entry to the court proceedings, claiming police had threatened and assaulted state witnesses and coached them to give false evidence This amounted to a fraud which rendered the trial null and void, they said

Secondly, the lawyers argued that the court had inherent jurisdiction to overturn its own judgement, if it was found to have been based on a fraud, even though it had gone on appeal

Jack Unterhalter SC, counsel for the six, referred to statements by two state witnesses, Joseph Manete and Johannes Mongaule, who said they had been assaulted by police and told to learn untrue statements by heart.

"The threats and assaults show a fraudulent system at work in regard to the whole trial when read with the evidence given at the trial, thus constituting an illegality or default which caused a failure of justice," he said.

He asked that Acting Justice WJ Human hear oral evidence from Manete and Mongale to determine whether a fraud had been committed "Our submission is there is a suspicion something is wrong, where the lives of six people are at stake we only ask you to investigate it."

But the judge — who convicted the six and also granted the March 17 stay of execution pending application for a retrial — said he had not relied on the evidence of the two witnesses

He had rejected Mongaule's evidence entirely, and had accepted Manete's evidence only when it correlated with that of another state witness, he said

Mr Justice Human added Manete's evidence did not influence the court at all "So where does it take one You can take his evidence and throw it out of the window and the verdict remains the same"

JL van der Merwe, appearing for the attorney general, argued that allegations that police had assaulted Manete and Mongaule were far-fetched, based on hearsay and provided no basis for the re-opening of the trial He said there was the danger that if retractions were accepted by courts it would encourage unscrupulous people to exert retractions from witnesses by fraud or bribery

Unterhalter explained that he had not approached Manete directly to get an affidavit, because if the trial was re-opened he would still be a state witness The judge dismissed this explanation as "one of the most feeble excuses I've ever heard"

Van der Merwe argued that once the Appeal Court had refused an appeal, the trial judge had no jurisdiction to hear an application for new evidence

The only recourse was to go to the state president with the evidence In terms of Section 327 of the Criminal Procedures Act he could — if he considered it favourably — decide to impose another form of punishment No appeal against the president's decision is allowed

Van der Merwe submitted that this procedure overrode the inherent jurisdiction of the supreme court. He said there was no inherent jurisdiction once leave to appeal was refused or the appeal was turned down

Mr Justice Human commented "If I grant a re-opening and I hear evidence where does it lead to I can't alter the judgement of the Appeal Court. So it's an exercise in futility"

However, Denis Kuny SC, who also appeared for the six, said there was "massive authority not only giving the court inherent jurisdiction, but entitling you (the judge) to grant the re-opening

"We submit this court always maintains power over its own judgement," he said "We made out a bona fide case dealing with the interests of justice Lives are at stake, they (the six) can do no more than come to your lordship and say this is what we know now We believe a fraud has been committed In the interests of justice you should exercise discretion in favour of the applicants. The consequences are too great."

Judgement is expected on Monday morning.

Journalist still detained despite board finding

By PAT SIDLEY

A JOURNALIST has been held in solitary confinement for almost a year despite an earlier recommendation by a detainees' review board that he be released.

Nor has Themba Khumalo been charged — yet during a court case in March the state said he would be charged with security offences

Khumalo, who worked as a freelance journalist for several news organisations, including the Associated Press and two Canadian groups, has been detained in terms of Section 29 of the Internal Security Act since June last year, and has not had access to his lawyers, family or friends during that time

According to his attorney, Kathleen Satchwell, it was only after an application to the supreme court in March for his release that allegations against him came to light.

The gist of police allegations against Khumalo, presented to the court as evidence of why he should not be released, was a claim that he was working for the African National Congress, had received and given training to guerrillas and was generally involved in "terroristic activity"

Satchwell told *Weekly Mail* she found it "disturbing" that people were detained on mere suspicion of wrong-doing and that "police are no longer investigating the allegations of offences before arresting a suspect and bringing him to court."

Satchwell said the detainees' review board, which is a government body intended to maintain some kind of control and guidance on detainees, was a "rubber stamping exercise with no power or influence".

Star 10/6/88

Stay of execution for killer

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PRETORIA. — A 24-year-old man, due to be hanged here today, was yesterday granted a stay of execution by the Supreme Court, Pretoria.

Paul Setlaba was sentenced to death in December 1986 for the murder of a suspected police informer.

Setlaba's attorney, Mr Roshan Dehal, said yesterday that the Supreme Court order had granted his legal team two months in which to submit a plea for clemency to President P W Botha

Setlaba's previous attorney had not lodged an appeal on his behalf.

Mr Dehal said the order had been granted unopposed.

Setlaba was convicted of murder and public violence in Graaff-Reinet on December 12, 1986. — Sapa

Stay of execution extended

Appeal bid by the Six

Cape Times 14/6/88

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From page 1

Sharpeville Six

Geoffrey Howe, made appeals for the lives of the six to be spared at the appeal stage.

In the House of Commons yesterday, Labour MP Mr David Winnick tried and failed to get an emergency debate on both the extension on the state of emergency in South Africa and the refusal to reopen the Six's trial

The leader of the Labour Party, Mr Neil Kinnock, said: "In the name of common humanity and for the sake of preventing violence in South Africa, I urge President Botha to prevent the execution of the Sharpeville Six" — Own Correspondent and Sapa-Reuter

JOHANNESBURG. — Lawyers for the Sharpeville Six are to petition the Acting Chief Justice to be allowed to appeal in the Appellate Division against the Pretoria Supreme Court ruling yesterday which rejected their bid to reopen the trial of the six.

Lawyers for the Six said yesterday that only once this option was exhausted would an appeal again be made to the State President for clemency to save the Six from being hanged

Earlier this year President Botha declined to exercise clemency — in spite of an international campaign calling on him to

Own Correspondent

do so because it was argued none of the Six directly contributed to the death of Lekoa deputy mayor Mr Khuzwayo Dlamini.

The current stay of execution was extended yesterday to July 19 by Mr Acting Justice Human

Sapa-AP reports that in rejecting the application yesterday, Mr Justice Human, who presided over the original trial in 1985, said the only remaining hope for saving the Six lay in petitioning Mr Botha again

The application for a retrial was based on allegations that police coerced two state witnesses

Mr Justice Human said that aside from these allegations, there was ample uncontested evidence to implicate all six defendants and described the request to pursue the case as "frivolous and absurd".

Mr Jack Unterhalter, SC, for the defence, asked for leave to appeal on grounds that the judge had erred in dismissing the application to reopen the hearing

"I see no reason why, if appropriate evidence is brought before the court for leave to appeal, that the situation will not change," he said

Mr Dennis Kuny, SC, also for the defence, said that despite the attorney-general's submission that the court did not have the inherent jurisdiction for the reopening of the case once the Appeal Court had confirmed the Supreme Court's verdict, the Appeal Court may well take a different view to the extent that fraud was an attributable factor

Mr Mac van der Merwe, SC, for the Transvaal attorney-general, said he opposed the application to appeal as there was no prospect of success

He said "You can grant leave to appeal provided there is a prospect of success. I submit that on the facts of the matter there is no merit for the application and we oppose it"

● The six accused are Mojalefa Sefatsa, Reid Mokoena, Oupa Diniso, Duma Khumalo, Francis Mokgesi and Theresa Ramashamola

US and Germany appeal to SA

WASHINGTON. — The United States issued an appeal yesterday on behalf of the Sharpeville Six, after the Supreme Court rejected pleas to reopen their case.

"We continue to appeal for a humanitarian resolution of the Sharpeville Six case, whether it be clemency or the granting of a new trial," said US State Department spokesman Mr Charles Redman.

The West German Foreign Minister, Mr Hans-Dietrich Genscher, has asked his officials to draft a tough statement on South Africa to put to other European Community foreign ministers today.

European Community foreign ministers discussed foreign policy issues on the first day of their two-day meeting in Luxembourg yesterday but diplomats said South Africa was not raised because they were seeking more information about the court ruling.

The court decision was making major news in Britain last night with calls for Mrs Margaret Thatcher to intervene personally to urge clemency.

A spokesman for the Foreign Office said the decision "had been noted". Mrs Thatcher and the Foreign Secretary, Sir

To page 3

Six retrial judgment to be heard next week

12/6/88 C/Press 252

By SOPHIE TEMA

JUDGMENT on the application for the re-opening of the Sharpeville Six trial will be given by Acting Judge WJ Human in the Pretoria Supreme Court on Monday.

The five men and a woman won a temporary reprieve from the death sentence on May 17

Malebo Mokoena, 24, Mojalefa Sefatsa, 32, Oupa Diniso, 32, Francis Mokhesi, 30, Duma Khumalo, 28 and Theresa Ramashamola, 26, were sentenced to death for the murder of Lekoa deputy mayor Khuzwayo Dlamini on September 3, 1984.

Attorney for the Six, Prakash Diar, produced a statement by prosecution witness, Joseph Manete, that alleged he was tortured by police and told what to tell the court

This week, the court heard arguments from the State and defence counsels on whether permission should be given for the re-opening of the trial on the basis of new evidence obtained in favour of the Six

JL van der Merwe, SC, for the State, asked the court to dismiss the allegations as hearsay, arguing no affidavit was placed before court that Manete had been assaulted by police

Van der Merwe asked the court not to take cognisance of the statement Manete was alleged to have made before his attorney

Defence advocate, Denis Kuny, SC, said he considered the court a proper forum for Manete to present his evidence

He said the court had inherent jurisdiction which flowed from common law and certain powers

Kuny said Section 327 of the Criminal Procedures Act, which – according to the State – empowers only the State President to deal with the application, does not limit the court's powers, but created an additional avenue which could be used by the accused

He said the court retained power over its own decisions and judgment.

Sharpeville Six will appeal against ruling

ROGER SMITH

LAWYERS for the Sharpeville Six are to petition the Acting Chief Justice to be allowed to appeal in the Appellate Division against the Pretoria Supreme Court ruling yesterday which rejected their bid to reopen the trial of the Six.

Lawyers for the Six said yesterday it was suggested that only once this option was exhausted would an appeal again be made to the President for clemency to be exercised to prevent the Six from being hanged.

The current stay of execution was extended to July 19 yesterday by Mr Acting Justice Human. The lawyers said they would apply for another extension if moves to appeal were still underway at that time.

Before a stay of execution was granted earlier this year in order to bring the application which failed yesterday, the President had refused to exercise clemency.

This was in spite of an international campaign calling on him to do so because it was argued none of the Six directly caused or contributed to the death of Lekoa deputy mayor Khuzwayo Dlamini

The State President's office yesterday refused to comment

Sapa-AP reports that in rejecting the application yesterday, the judge, who presided over the original trial in 1985, said the only remaining hope for saving the Six lay in petitioning the President again.

The judge said there was ample uncontested evidence to implicate all six defendants and described the request to pursue the case as "frivolous and absurd".

☐ The Supreme Court decision made major news in Britain last night with calls for Prime Minister Margaret Thatcher to intervene personally.

A Foreign Office spokesman said the decision "had been noted" by government but declined to comment.

In the House of Commons, Labour MP David Winnick failed to get an emergency debate on the extension on the state of emergency in SA and the refusal to reopen the trial of the Six.

south NEWS

Sharpeville Six parents outside the Pretoria Supreme Court this week

15-22/6/88

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World focus back on Six

15-22/6/88

From MONO BADELA

JOHANNESBURG. - A failed court bid but all's not lost as a mother's prayer signifies

Mrs Leah Mokoena, aged 67, has left the fate of her son on death row in the hands of God But, even as she prayed, world attention was once more being focused on an issue which would undoubtedly propel this country again into the international spotlight

Said Mrs Mokoena· "I am now leaving everything to my God I know my son Reid is innocent. I am disappointed but there is still hope that God will spare his life."

Mr Acting Justice W J Human turned down an application to have the case against the Sharpeville Six reopened

Her son, Reid Malebu Mokoena, 24, is one of the six - five men and a woman - who are to remain on death row in the Pretoria Central Prison They were found guilty of the murder of a Lekoa township deputy mayor Khuzwayo Jacob Dlamini in September 1984

A bid to have their case re-opened failed in the Pretoria Supreme Court this week.

It was a disappointing day for Mrs Mokoena, a domestic worker, and others who packed the Pretoria Supreme Court

Not least disappointed was the attorney representing the Six, Mr Prakish Diar

He described the judgment as "surprising and shocking", but said they would fight "to the last" He appealed to the international community to exert pressure on the the South African government to spare the lives of the Six

When the Sharpeville Six were granted an eleventh hour reprieve on March 17, Mrs Mokoena was so full of joy that she overslept the next morning after a late night She missed work for the first time in her life

"Now I am leaving everything to my God. He had spared his life before. Everything now depends so much on Him I am just going to pray "

After Mr Acting Justice Human had handed down his original judgment the world reacted swiftly And now another international outcry is gaining momentum following the refusal to re-open the case

The British Labour Party leader, Neil Kinnock, appealed to President P W Botha "in the name of common humanity" to reprieve the six Kinnock is expected to ask British Prime Minister Margaret Thatcher to intervene personally on behalf of the condemned

Former Sophiatown Anglican priest and now chairman of the British Anti-Apartheid Movement, Bishop Trevor Huddleston, and a number of MPs announced this week they would join a mass demonstration outside the South African Embassy to call for clemency

Joyce Mokhesi, sister of Francis Mokhesi, one of the Six, was reported as saying in London· "This decision is unbelievable How can a judge who has admitted that there is no direct evidence against the six dismiss this application as 'frivolous, absurd and an abuse of the processes of the court'?"

The Reagan administration has also criticised the court's decision The prevailing view in the United States is that all Six should be spared from the gallows

Mr Justice Human granted the Six a stay of execution until July 19 to enable lawyers for the condemned six to petition the Chief Justice of the Appeal Court before that date.

Earlier he had refused the six leave to appeal against his decision. Only the Chief Justice can overrule this decision

The Six - Duma Joshua Khumalo, Francis Don Mokhesi, Reid Malebo Mokoena, Oupa Moses Diniso, Theresa Ramashamola and Mojalefa Reginald Sefatsa - were sentenced to death in December 1985 for having common cause with a crowd to kill township deputy mayor Khuzwayo Jacob Dlamini in September 1984

South Africa back in world spotlight after 'Six' verdict

17-23/6/88 W/Mail (252)

Foreign embassies are instructed to monitor fate of Sharpeville Six after court case is lost

JO-ANN BEKKER reports from Pretoria

THE Pretoria Supreme Court's refusal to re-open the "Sharpeville Six" trial this week has again placed the fate of the six condemned people in the international spotlight

Edwin Cameron of the University of the Witwatersrand's Centre for Applied Legal Studies said "many people in South Africa and abroad see the outcome of the case as a miscarriage of justice".

The European Community has decided that West Germany, which currently chairs EC meetings, should ask its ambassador in Pretoria to make representations to the South African government It expressed "deep distress and concern" about the fate of the five men and one woman on death row

The United States State Department said it would inform the South African government that "we continue to appeal for a humanitarian resolution whether it be clemency or the granting of a new trial". British Labour leader Neil Kinnock appealed to Botha "in the name of common humanity" to reprieve the six

Foreign embassy representatives said this week they were closely monitoring further bids to save the Sharpeville Six, who were sentenced to death for having "common purpose" with the unknown killers of councillor Khuzwayo Dlamini on September 3 1984

International pressure for President PW Botha to grant clemency reached fever pitch earlier this year when the six – who were granted a stay of execution by the Supreme Court one day before they were due to hang on March 18 – were given their execution notices.

Diplomatic sources this week said there was no reason to believe the concern would diminish

In a strongly worded judgement, Acting Justice WJ Human – the judge who heard the original trial and granted the March stay of execution – ruled on Monday that he had no authority to re-open the trial

He described as "frivolous and absurd" an application for him to hear oral evidence from two state witnesses, Johannes Mongaule and Joseph Manete, who had made statements that they had given false evidence in the trial after being threatened and assaulted by police

The judge said he had rejected Mongaule's evidence as false and it had not affected his verdict He had accepted Manete's evidence only where it corroborated that of another state witness. The police had denied assaulting the two witnesses, he added.

Lawyers for the six claimed the assault allegations showed "a fraudulent system at work in regard to the whole trial, constituting an illegality or default which caused a failure of justice" They asked the judge to examine the truth of the claims by hearing oral testimony.

But Justice Human said there was no evidence that other witnesses had been assaulted. Hearing oral evidence, he said, would be "an abuse of the process of the court"

Last week lawyers for the six reminded the judge that in granting the stay of execution in March, he had indicated that Manete's statements to lawyers confessing he had given perjured evidence might have a bearing on the outcome of the trial.

On Monday, however, the judge said he had received no affidavit from Manete that his evidence had been untrue. He said the explanation by lawyers for the six – that it would be improper for them to approach a state witness when they were hoping the judge would recall him – was "utterly unconvincing and unacceptable".

Justice Human ruled that in South African law there was no provision for a trial court to hear further evidence once an appeal had been dismissed by the Appeal Court. The Sharpeville Six were sentenced to death in December 1985 and their appeal was dismissed by the Appeal Court in December 1987

The correct procedure, he said, was to petition the State President in terms of Section 327 of the Criminal Procedure Act The president could then rule that the trial hear new evidence, and the court could impose a less severe punishment

Early this year, lawyers for the six petitioned the State President to re-open the trial, based on Manete's statement that he had been assaulted The petition was refused

The judge said there was nothing to stop the six approaching Botha a second time with Manete's subsequent statements to his lawyers

Justice Human refused the Sharpeville Six leave to appeal against his ruling.

Lawyers for the six said they would appeal to the Chief Justice for the right to appeal If they failed, they would again petition the State President

Although counsel for the Attorney General's office did not oppose an application for an indefinite stay of execution, Justice Human said "I am not prepared to extend the stay of execution beyond July 19"

Several relatives of the six – Theresa Ramashamola, 27; Mojalefa Sefatsa, 32, Malebo Mokoena, 24, Oupa Diniso, 32, Duma Khumalo, 28, and Francis Mokhesi, 31 – wept as they left the court building on Monday to inform their children in Pretoria Central Prison of the decision

A crowd of spectators stood grim-faced on the grass square facing the courtroom. It was a scene which contrasted greatly with the spontaneous jubilation which erupted after the six received a stay of execution on March.

● The Rev Frank Chikane, general secretary of the South African Council of Churches, said he was "shocked and disgusted" by the court's decision.

252 S Times 19/6/88

No bail for top Soweto police officer

By DE WET POTGIETER

A BAIL application by a top Soweto municipal policemen was turned down this week after evidence that the policeman would intimidate witnesses if released.

Colonel Henk Meintjies will appear again in the Kliptown Regional Court tomorrow on a further bail application pending a decision by the Attorney-General whether to prosecute him on charges of alleged theft and fraud during the 1986 township unrest

The colonel was arrested at his Dube HQ two weeks ago after a raid by the Police Reaction Unit in which a number of municipal officers were held.

Sequel

In a sequel to the raid another senior officer, Major Theuns Venter, gave himself up and was later released on R2 000 bail

Two bail applications by Colonel Meintjies in the past two weeks were turned down at the request of the Senior State Prosecutor, Mr At Brits.

Detective-sergeant Dave Haarhoff, of the Kliptown Special Investigation Unit, testified that he had difficulty in getting statements from possible state witnesses before Colonel Meintjies's arrest.

According to him several witnesses had made statements since the arrest.

Detective-sergeant Nicolaas Els, of the municipal police, told the court Colonel Meintjies had threatened him with a civil case.

On Monday Constable Maureen Gumede testified that Colonel Meintjies started intimidating her after he found out she had made a statement.

Firearms

Meanwhile, official sources report that other officers in the Soweto municipal police are under investigation for crimes involving the theft of computers from Soweto schools and the looting of bottlestores.

It is also learnt that Orlando police are investigating the mysterious disappearance of more than 150 firearms from the Dube HQ of the municipal police. Among the weapons are shotguns and 0.38 service revolvers. A murder charge is also being investigated.

World appeals for Six reprieve

FOURTEEN British MPs staged a protest outside the SA Embassy in London this week, calling for reprieve for the Sharpeville Six, who have been sentenced to hang for their part in a mob killing

The MPs and representatives of the ANC brandished placards saying "Don't let them die" and "No apartheid execution" outside the Embassy in Trafalgar Square

"We want to forcibly request (British Prime Minister) Margaret Thatcher to make a personal intervention with (State President) PW Botha to commute the sentences," said opposition Labour Party MP Richard Caborn

Earlier this week, the Pretoria Supreme Court rejected pleas to re-open the case of the Sharpeville Six, but granted them a stay of execution until July 19

The five men and a woman were sentenced for sharing "common purpose" with a mob of about 100 which killed councillor Khuzwayo Dlamini in 1984

● THE New Zealand Government has assured the ANC it would do everything possible to protest against the execution of the Six

Speaking in Lusaka this week, after holding talks with senior officials of the ANC, New Zealand Foreign Minister Russel Marshall said executions going on in South Africa were not isolated ones

Marshall said his government would work to save the lives of the 54 black South Africans facing the hangman — Sapa-Ano

Remorseful Manete to petition President, Chief Justice on Six

By CHARLES MOGALE

A KEY witness who gave evidence against the Sharpeville Six is to write to the State President and Chief Justice in a bid to save the Six from the gallows

Joseph Motsumi Manete, 23, said this week he hoped his letters would save the internationally-famous Six from the hangman's noose

In an exclusive interview with *City Press* this week, Manete said "That is the only way out I want to clear my conscience"

The Six are Mojalefa "Jaja" Sefatsa, 32, Malebo Mokoena, 24, Oupa Diniso, 32, Theresa Ramashamola, 26, Duma Khumalo, 28, and Francis Mokhesi, 30 They were convicted of the murder of deputy mayor of the Lekoa, Khuzwayo Jacob Dlamini on September 3, 1984

Although the Judge found none of them directly responsible for Dlamini's death, he convicted them on the controversial "common purpose" doctrine, sparking off international criticism

In March this year, the Six beat the gallows by hours when their lawyer, Prakesh Diar, presented Judge WJ Human with an affidavit made by Manete to his lawyer, Mohamed Bam, contradicting his evidence in the trial. In the affidavit, Manete said he had been tortured by the police and threatened with detention if he did not incriminate two of the Six.

During the trial, his evidence could not be cross-examined because of the privileged client-lawyer confidence rule

Manete, who has been widely regarded as a possible saviour of the Six, said he did not want "innocent" people to hang

"I have been hoping I would be called before the court again There are many things I want to say to clear my conscience, but that has not happened, and I am now confused There is a lot inside me which I want to tell the world. I don't care about the consequences now," he said

Shortly before the last-minute reprieve of the Six on March 19, Manete, after consultation with his lawyer, signed a waiver document that opened his evidence to scrutiny

"Now the only way out for everybody is for me to write to the State President and the Chief Justice personally, telling them everything the way it happened, until I gave evidence. Lives are at stake, and the truth should be told," he said

"They must not hang," he muttered with tears welling in his eyes

He said he was confident the contents of his letters would cast aspersions on the evidence of other State witnesses at the trial

"I realise that time is running out," he said

Meanwhile, Judge Human this week turned down an application by the Six for the re-opening of their trial in the light of Manete's alleged perjury, saying it was outside his jurisdiction

He refused the defendants leave to appeal against his refusal to re-open the trial

However, he extended the stay of execution of the Six until July 19 for their lawyers to petition the Chief Justice or the State President

● See Page 2

Another tragic victim of the ring . . . Brian Baronet in convulsion after being knocked out this week.

Protests likely on the Six

B/day 20/6/88

NEIL JACOBSOHN

A NUMBER of European ambassadors are likely to be recalled from SA for consultation — a gesture of severe protest — if the Sharpeville Six are executed on July 19

At least one senior amabassador, West Germany's Immo Stabreit, has confirmed he was set to return to Bonn on the instructions of his government when the Sharpville Six were first due to be hanged in March

The recall was cancelled when a stay of execution for the Six was grantd on March 17.

Asked whether he would be recalled if the hangings went ahead as scheduled on July 19, Stabreit said at the weekend there was no reason why the West German government's attitude should have changed.

Other diplomatic sources indicated that several other governments, mainly from the group of 12 European Community (EC) states represented in SA, were likely to follow West Germany's lead.

West Germany holds the presidency of the EC group

It could not be ascertained this weekend how many European governments are still committed to recalling their ambassadors

The refusal last week of Acting Justice J W Human to grant a retrial for the Six has sparked a fresh storm of international protest. After the decision, Stabreit delivered a *demarche* to Deputy Foreign Affairs Minister Kobus Meiring on behalf of the EC nations The *demarche* expressed the deep distress of the EC government at the decision and

● To Page 2

Sharpeville 6: Europe poised to protest

● From Page 1

B/day 20/6/88

their concern for the fate of the Six.

It urged that "all legal options" in SA be used to prevent the death penalty, and drew attention to earlier representations on the same issue made by the government

Appeals for clemency have come from all around the world, including the US, France and Britain, while 500 members of the British Legal Community called on the British government to sever ties with SA

On Friday, the United Nations Security Council unanimously appealed for clemency for the Six

□ Japanese Acting Foreign Minister Keizo Opuchi repeated his government's concern at the scheduled execution

Cape Times 21/6/88 252

Envoy will go if 'Six' hang

THE HAGUE. — The Netherlands will withdraw its ambassador from South Africa unless the death sentence on the Sharpeville Six is commuted, a spokesman for the Foreign Ministry said yesterday.

If the six are executed on July 19, the Dutch ambassador will be withdrawn.

In a message conveyed through South African Ambassador Mr Frank Quint on Friday, the Dutch have already asked South Africa to commute the sentence.

A West Germany Foreign Ministry spokesman indicated yesterday that his government would act against South Africa if the Sharpeville Six are executed.

'Execution must not take place'

Mr Reinhard Bettzuege said he could not disclose what the West German reaction would be, but there would be one. "The execution must not take place," he said.

It is reported frm London that anti-apartheid activists will meet British Deputy Foreign Secretary Ms Lynda Chalker today to urge the UK government to intervene to stop the execution of more than 50 people in SA.

AAM executive secretary Mr Mike Terry and prominent lawyer Mr Geoffrey Bindman will focus specifically on the case of Robert McBride, who failed last week in his application to reopen his trial. — UPI and Own Correspondent

CAPE PENINSULA and vicini and Western Cape Coast Belt: Cloudy and cold wi showers clearing over t Peninsula and Boland Win moderate south-westerly b coming south-easterly lat The minimum and ma mum temperature will be b tween 06 and 18 deg C

Coastal belt Cape Infanta to Plett berg Bay Cloudy and cold w occasional rain

Coastal belt Plettenberg Bay to P Alfred: Cloudy and cold with casional rain.

Coastal belt Port Alfred to Port E ward Partly cloudy and mild coming cloudy and cold with casional rain

Namaqualand and the South-We ern Cape Interior: Partly clou and cold but cloudy with isola showers where it will clear la

Pretoria, Witwatersrand and Eastern Highveld Fine and m becoming partly cloudy with lated light showers

Transvaal Partly cloudy and becoming fine and mild

Free State. Partly cloudy and with isolated showers

Natal Cloudy and colder from south with showers Snow will occur on the southern kensberg

Namibia Partly cloudy and clearing

Botswana Fine and mild becom colder

YESTERDAY'S READINGS

	noon	8
Barometer	1020,2	102
Humidity	80,0	9
Temperature	13,5	1

max 15,5 min 10,9

(At D F Malan 24 hours to 8p

Hours of sunshine: 2,4

Wind (D F Malan) 8 pm. Calm

TV TODAY

The Six: Envoys may be recalled

Cape Times 20/6/88

Own Correspondent 252

JOHANNESBURG. — A number of European ambassadors are likely to be recalled from South Africa for consultation — a gesture of severe protest — if the Sharpeville Six are executed, on July 19

At least one senior ambassador, West Germany's Dr Immo Stabreit, has confirmed that he was set to return to Bonn, on the instructions of his government, when the Sharpville Six were first due to be hanged, in March. The recall was cancelled when a stay of execution was granted.

Diplomatic sources indicated that several other governments, mainly from the group of 12 European Community (EC) states represented in South Africa, were likely to follow West Germany's lead.

It could not be ascertained at the weekend exactly how many European governments are committed to recalling their ambassadors if the executions go ahead. One senior diplomat said there was no concerted plan at present.

"It's still too early for that kind of joint decision. There are four weeks before the executions are to take place, and our hopes are high that something will happen before then to save the Six."

Appeals for clemency have come from all over the world, including the United States, France, Britain and Japan. On Friday, the UN Security Council unanimously appealed for clemency for the Six.

Hansard

(2) whether, during the latest specified period of 12 months for which information is available, his Department has taken any steps against unauthorized persons indulging in this practice, if so, (a) (i) on how many occasions and (ii) with what results and (b) (i) in terms of what statutory provisions were these steps taken and (ii) what are the penalties for contraventions of this nature,

(3) whether his Department is taking any precautions to eliminate or minimize this practice, if so, what precautions?

The MINISTER OF COMMUNICATIONS

(1) Yes, but only in those cases where the premises of a specific client are served from a distribution point mounted on top of a telephone pole,

(2) no, since no such cases have been brought to attention,

(3) yes, in so far that technical staff visiting premises for maintenance and other purporses are continually on the alert for any unauthorised attachments to and other forms of tampering with departmental installations Due to the large number of distribution points it is obviously not possible to physically safeguard each one It should be mentioned that in terms of Section 107 of the Post Office Act (Act 44 of 1958) a person who attaches a listening device to a telephone line in the manner described by the honourable member, makes himself guilty of an offence and is liable on conviction to a fine not exceeding R200,00 or imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment

Blacks: houses sold

1213 Mr K M ANDREW asked the Minister of Constitutional Development and Planning

How many houses had been sold to Blacks by his Department under the State housing sale announced by the then Minister of Community Development on 3 March 1983, as at the latest specified date for which figures are available?

The MINISTER OF CONSTITUTIONAL DEVELOPMENT AND PLANNING.

My Department does not possess any houses for sale to Blacks

Permanent Force: staff complement

1252 Mr J J S PRINSLOO asked the Minister of Defence †

Whether he will furnish information on the staff complement of the Permanent Force, if not, why not, if so, how many (a) Whites, (b) Blacks, (c) Coloureds and (d) Indians were members of the Permanent Force on 31 December 1982, 31 December 1983, 31 December 1984, 31 December 1985, 31 December 1986, 31 December 1987 and 1 May 1988, respectively?

The MINISTER OF DEFENCE

No It is policy not to divulge personnel strengths

African languages spoken in Cape Province

1262 Mr C J DERBY-LEWIS asked the Minister of Home Affairs

(a) What African languages other than Xhosa are spoken in the Cape Province, (b) how many Africans speaking these other languages reside in the Cape Province and (c) in respect of what date is this information furnished?

The MINISTER OF HOME AFFAIRS

(a)	(b) 322 660 of which
Zulu	6 647
Swazi	504
South Ndebele	286
North Ndebele	273
North Sotho	2 558
South Sotho	31 865
Tswana	214 013
Tsanga	775
Venda	136
Other languages not separately specified	65 603

(c) Population Census 6 May 1980

Hansard

HOUSE OF ASSEMBLY

†Indicates translated version

For written reply

General Affairs

Aliens employed illegally

872 Mr K M ANDREW asked the Minister of Justice

With reference to his reply to Question No 26 on 8 March 1988, (a) how many aliens were employed illegally by each of the 32 persons convicted of this offence, (b) from what country did each of these aliens come, (c) how long had each alien been in South Africa and (d) what was the penalty imposed on each of the convicted persons?

The MINISTER OF JUSTICE

(a) to (c) The information is not readily available in the Department

(d) In my reply to Question No 26 of 5 March 1988 I indicated that 32 employers were convicted of the offences concerned After the records had been examined to obtain the information regarding the penalties, it, however, appeared that 30 employers were convicted in this regard The penalties which were imposed, are as follows

1 employer was convicted, cautioned and discharged
2 employers each paid R150 admission of guilt
2 employers each paid R250 admission of guilt
10 employers each paid R300 admission of guilt
7 employers each paid R600 admission of guilt
1 employer paid R1 000 admission of guilt
1 employer paid R1 200 admission of guilt
1 employer was sentenced to R100 or 50 days' imprisonment suspended for 3 years
1 employer was sentenced to R250 or 75 days' imprisonment
1 employer was sentenced to R1 000 or 6 months' imprisonment suspended for 5 years
1 employer was sentenced to R1 000 or 12 months' imprisonment suspended for 5 years
1 employer was sentenced to R2 000 or 12 months' imprisonment of which R1 500 or 9 months' imprisonment was suspended for 5 years
1 employer was sentenced to R2 000 or 2 years' imprisonment suspended for 5 years

Death sentence

252

1008 Mr P G SOAL asked the Minister of Justice

(1) (a) How many people were sentenced to death in 1983, 1984, 1985, 1986 and 1987, respectively, and (b) in respect of the persons so sentenced in each of these years, (i) how many persons were refused leave to appeal, (ii) how many sentences were altered or reduced by the Appellate Division, (iii) how many convictions were reversed by the Appellate Division, (iv) how many sentences were commuted by the State President, (v) how many persons were executed and (vi) how many persons were defended by *pro Deo* counsel at trial or appeal,

(2) whether consideration is being given to reviewing the grounds on which the death penalty may be imposed, if so, what are the relevant details,

(3) whether consideration is being given to providing more experienced senior counsel in respect of *pro Deo* defence, if so, what are the relevant details?

The MINISTER OF JUSTICE

(1) (a) 1983 — 182
1984 — 168
1985 — 189
1986 — 207
1987 — 248

(b) (i) 1983 — 122

1984 — 103
1985 — 96
1986 — 102
1987 — 143

(ii) 1983 — 16
1984 — 20
1985 — 12
1986 — 12
1987 — 1

(iii) 1983 — 3
1984 — 6
1985 — 7
1986 — 8
1987 — 2

(iv) 1983 — 30
1984 — 26
1985 — 28
1986 — 20
1987 — 11

(v) 1983 — 132
1984 — 115
1985 — 129
1986 — 138
1987 — 79

(vi) The information is not readily available in the Department To obtain the information, all the court records concerned will have to be examined, which is not economically feasible

(2) No

(3) In terms of the present *pro Deo* system, everyone who is accused of a capital crime, is entitled to *pro Deo* defence During the pre-trial procedures, it however happens that the accused indicates that he prefers to appoint his own legal representative Should the accused in fact require *pro Deo* defence, the Bar Council concerned is requested to appoint a *pro Deo* Counsel for the accused The decision as to which advocate is to be appointed, therefore rests with the Bar Council concerned

Ekangala: size and population

1066 Mr P G SOAL asked the Minister of Education and Development Aid

(1) (a) What is the size in hectares of Ekangala, (b) what is the (i) *de facto* and (ii) *de jure* population of this area and (c) in respect of what date is this information furnished,

(2) (a) (i) how manyhousing units have been built in Ekangala to date and (ii) how many persons are still waiting for houses and (b) how many tents are currently being used to shelter those persons still waiting for houses,

(3) (a) how many houses are provided with (i) electricity, (ii) a water-borne sewerage system, (iii) running water and (iv) facilities for telephones and (b) what provision has been made to provide those persons currently living in tents with(i) toilets, (ii) water and (iii) fuel,

(4) (a) what (i) sport and (ii) recreational facilities are available in Ekangala at present and (b) how many (i) shops and (ii) (aa) occupied and (bb) unoccupied industrial sites are there in this area,

(5) (a) (i) what public transport services are currently available to persons living in Ekangala and (ii) to what percentage does the State subsidize each of these services and (b) (i) how many kilometres of road are there in this area and (ii) how many of these are tarred?

The MINISTER OF EDUCATION AND DEVELOPMENT AID

(1) (a) 543,1521 hectares
(b) (i) and (ii) 9 028
(c) 30th April 1988

(2) (a) (i) 2 447
(ii) 4 000
(b) None

(3) (a) (i) 1 709
(ii) 1 709
(iii) 2 447
(iv) None
(b) No persons are living in tents
(i) to (iii) Fall away

(4) (a) (i) Soccer field with athletic track

Hall with amenities for volleyball, karate, tabletennis and body building
1 Practice soccer field
(ii) Hall available for concerts, functions, receptions, etc
(b) (i) 20
(ii) (aa) 173
(bb) 128

(5) (a) (i) Putco bus service and private taxis
(ii) 75% in respect of bus service
(b) (i) 78,4 km
(ii) 48 km

The amounts given under (4) (b) (ii) (aa) and (bb) are in regard to Ekandustria, adjacent to Ekangala All the information were supplied by the KwaNdebele Government Service who now has the powers

Non-White children. adoption by Whites

1120 Mr C J DERBY-LEWIS asked the Minister of Justice

(1) Whether his Department received any applications from White married couples to adopt non-White children during the latest specified five-year period for which information is available, if so, (a) how many such applications were (i) granted and (ii) refused and (b) in terms of what statutory provisions were they (i) granted and (ii) refused,

(2) whether his Department keeps statistics of prosecutions instituted against White married couples for contravening the relevant statutory provisions in this regard, if not, why not, if so, how many such prosecutions were instituted during the above period?

The MINISTER OF JUSTICE

(1) The information is not readily available To obtain it, all applications for adoptions country-wide over many years will have to be scrutinised However, the Honourable Member's attention is drawn to the provisions of Chapter 4 of the Child Care Act, 1983 (Act 74 of 1983) which regulates the adoption of children The provisions of sections 18(3) and 18(4) of the Act are of particular interest

(2) It is not clear what offences the hon member has in mind

Bedford: magistrates

1177 Mr C J DERBY-LEWIS asked the Minister of Justice

Whether he will furnish particulars of the persons who served as magistrates in Bedford in the Cape Province during the latter half of 1987, if not, why not, if so, (a) what are the names of these magistrates, (b) for what period did each serve as magistrate in Bedford and (c) what (i) was their length of service as magistrates, and (ii) were their qualifications, in each case?

The MINISTER OF JUSTICE

(a) to (c)

Only one person has servied as magistrate in Bedford during the latter half of 1987 He is Mr F N Vorster who has served there since 1 October 1985 He has held the post of magistrate since 1 August 1983 and has a Diploma Iuris

Staff housing subsidies

1240 Mr R M BURROWS asked the Minister of Communications

What total amount was allocated by his Department for the (a) 1986-87, (b) 1987-88 and (c) 1988-89 financial years for the payment of staff housing subsidies on a (i) compulsory and (ii) voluntary basis?

The MINISTER OF COMMUNICATIONS

(a) (i) and (ii) R79 378 850,12,
(b) (i) and (ii) R84 319 829,38 and
(c) (i) and (ii) R84 106 030,00

A global amount is budgeted for in respect of housing subsidies and funds are not allocated separately for or record kept of subsidies on compulsory and voluntary additional payments

Abortions authorities granted

1245 Mr C J DERBY-LEWIS asked the Minister of National Health and Population Development

A revolution in the quality of, and attitude to, the law of the land

Cape Times 22/6/88

(252)

By GERALD GORDON QC and DENNIS DAVIS (Associate Professor of Law at the University of Cape Town)

SOUTH AFRICA inherited a magnificent tradition of freedom under law This was based first on the writings of the great jurists of the Netherlands and secondly on the libertarian principles of English public law

The resulting common law of our country was marked by the basic principles of natural justice and the rule of law and by a broad equitable spirit in the sense of being reasonable and impartial and protective of the fundamental rights of the individual

We are told frequently these days by members of the Government that a revolution is round the corner and the phrase "revolutionary climate" appears in many ministerial speeches

Whether there is any justification for this warning, what is clear is that to meet the "revolution" the Government has been subjecting South Africa to a revolution of a different kind — a revolution in the quality of, and attitude to, the law of the land

This process has gone on ever since the Nationalists came to power in 1948 but it drastically quickened from 1985, when, following on the events succeeding the Vaal Triangle unrest, the State President, acting under the Public Safety Act of 1953, proclaimed the first of the recent emergencies That emergency was in the event temporary and geographically limited Some four months after its termination however a nationwide emergency was declared That was in June 1986 and, renewed by the State President this month, it enters its third year of existence.

Supplant

The Public Safety Act empowers the State President to declare an emergency, inter alia, if in his opinion, the ordinary law of the land is inadequate to ensure the safety of the public or maintain public order For this reason legislation provided that the State President could introduce emergency regulations effectively to supplement the ordinary legal system With us now into the fourth emergency within four years, it is clear that the emergency regulations, rather than *supplementing* the ordinary law of the land actually *supplant* it.

When the limited emergency of 1985 was declared, the government was still engaged in persuading the international community of its genuine intention to reform Hence it vacillated between the policies of reform and repression But by the time P W Botha declared the first nationwide emergency on June 12, 1986, the government had finally and irrevocably set its course on the path of unrestricted repression

As the State President said at the time, "Everything indicated that there is now, and there will be for the foreseeable future, a need for such legislation" (House of Assembly Debates 1986 Col 8110).

The 1986 Regulations were far tougher than those which had operated during the 1985 Emergency The restrictions of press coverage were tightened, particularly in so far as press reporting of unrest areas was concerned

Extended

In June 1987 the Emergency was renewed The State President claimed that "the extraordinary measures adopted during the past year have resulted in a decline in the visible incidence of violence, but if such measures could no longer be utilized there would be a serious and real danger of another escalation of internal violence" (HAD 1987 Col 1182)

Although he claimed that the Emergency had been successful and was now being used as a deterrent rather than as an offensive weapon as had been the case in 1986, the regulations gave even greater powers to the executive The initial period of detention which could be authorized by an ordinary member of the security forces was extended from 14 to 30 days and new media regulations were promulgated, which reintroduced clauses that previously had been set aside by the Natal Supreme Court, as well as extending the definitions of a subversive statement.

Later in the year, the media regulations were dramatically extended Mr Stoffel Botha told Parliament that the government's existing measures were not adequate to "act effectively against the revolutionary supportive propaganda" (HAD 1987 Col 4683)

As he told the Star Conference in October of last year, what concerned the government was "the irresistible temptation to interpret the situation in such a way that the potential for conflict and drama is over-emphasized (if not invented) while the anti-drama of reform is all but ignored" (SA Digest 16 10 87) In other words, press which sought to portray genuine black opposition to the government policy, was a hindrance to government policy and needed to be removed

In February 1988, further extensions to the regulations took place whereby the Minister of Law and Order was empowered to restrict the activities of organizations and individuals Mr Adrian Vlok, the Minister, promptly used these new powers to restrict the activities of 17 organizations

With the emergency extended for another year, the regulations are even more extensive than those of the previous version All the powers which were given to the Minister of Law and Order to restrict individuals and organizations have been incorporated into the main body of the emergency The media regulations have been tightened up with a prohibition against reporting of any speech, statement or remark of any office bearer or spokesman of an unlawful or restricted organization irrespective of whether such a person is restricted or not, "insofar as any such speech, statement or remark has the effect or is calculated to have the effect of threatening the safety of the public or the maintenance of public order or of delaying the termination of the state of emergency"

Consequently any reporting of the comments of the ANC or the UDF, for example, are restricted in terms of this measure Similarly it becomes a subversive statement to encourage a boycott of any election, including municipal elections, save in the case of a party registered under the Electoral Act or an organization having representatives in the election

Despite the claim that the emergency measures are working, they have been extended regularly during the past four years, and the provisions are far more repressive now than they were four years ago The regulations are even presented in the form of acts of parliament, each having a title as one would expect of a full-blown statute "The Security Emergency Regulations", "The Media Emergency Regulations", "The Prison Emergency Regulations", etc

In 1986 the government introduced the so-called Le Grange Bills to amend the Public Safety Act. Before this, any House of Parliament could have vetoed the emergency regulations As a result of the amendment, so long as one of the three Houses approves of the regulations, they will continue to operate In other words, the House of Assembly will always be able to block any possible (however unlikely) move of its junior colleagues in the Representatives or Delegates to terminate the emergency As a result the Emergency allows the government the possibility of operating the tricameral system and even expanding it to co-opt blacks whilst at the same time allowing the executive *absolute control* of the most critical decisions of government without any possible opposition

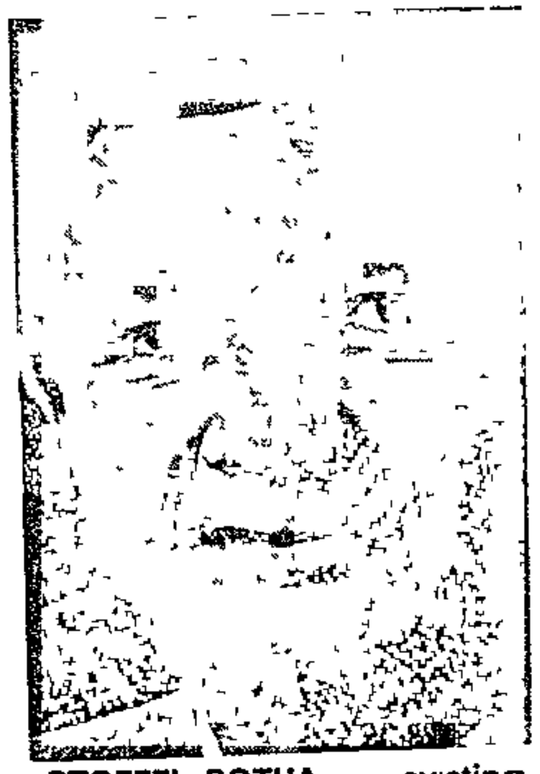
Two-pronged

The emergency measures are thus a crucial component of the government's total strategy Influenced by writings such as those of Andre Beaufre, a French general dealing with Malaysia, Algeria and Vietnam, the government is convinced that it needs to mobilize all aspects of the power structure not merely the military, to deprive its opposition of economic, political and psychological resources

With a two-pronged attack of politics and repression it hopes to win public support sufficient to defeat its extra-parliamentary opposition But as three million workers showed earlier this month, four years of repression have not succeeded in this aim. Hence this 1988 emergency will be followed, no doubtly, by an even more draconian 1989 model.

"For the foreseeable future," therefore, the emergency regulations are and will remain the "ordinary law of the land"

ADRIAAN VLOK . promptly used new powers to restrict 17 organizations.



STOFFEL BOTHA ... existing measures were "not adequate against revolution supportive propaganda"

Spain threatens sanctions over 'Six'

MADRID — Spain has threatened to take political sanctions against SA if it executes six blacks sentenced to hang for their part in the murder of a black official, the Foreign Ministry said yesterday.

A spokesman would not disclose what specific sanctions were being considered, but said they could include recalling Madrid's ambassador from Pretoria and reducing the number of SA diplomats in Spain.

SA ambassador David Louwe was told of the possible sanctions when he visited the ministry on Monday, the spokesman added.

Foreign Minister Francisco Fernandez Ordonez said recently Spain would take sanctions independently of its European Community partners if the "Sharpeville Six" were hanged.

☐ A four-man delegation from Satis, an arm of the Anti-Apartheid Movement, yesterday held a half-hour meeting with the British government in a bid to press Whitehall into intervening over the case of the Sharpeville Six. — Sapa-Reuter.

● See Page 7.

Court is told of street committees

SUSAN RUSSELL

ONE of eight young Alexandra men charged with treason had encouraged and assisted in the creation of alternative constitutional structures such as yard, street and block committees, it was submitted in the Rand Supreme Court yesterday.

This was said in argument by State counsel E du Toit, SC, referring to Ashwell Zwane.

Zwane, Vusi Andries Ngwenya, Andrew Mafutha, David Mafutha, Arthur Selby Vilakazi, Albert Ali Sebola, Piet Mogano and Phillemon Chick Phalongwane have all pleaded not guilty to treason and alternative charges of sedition and subversion.

Du Toit submitted that a quotation found in an exercise book saying, "The day is coming when the Boers will be made to pay for innocent African blood which is wasted day by day" had been written by Zwane.

Argument continues before Mr Justice Grosskopf today.

Sethebu's theft: mother of

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60% of Death Row executed in five years

By BARRY STREEK
Political Staff

NEARLY 60% of the 994 people sentenced to death over the last five years were executed, the Minister of Justice, Mr Kobie Coetsee, revealed yesterday

He said 593 people had been executed in South Africa between 1983 and 1987

Last year, when 79 people were executed, was the lowest total in five years

In 1983, 132 people were executed, as were 115 in 1984, 129 in 1985 and 138 in 1986

Mr Coetsee also said the State President had commuted 115 death sentences over the five-period

A further 61 people had their sentences altered or reduced by the Appellate Division and 26 convictions were reversed by the Appellate Division

Mr Coetsee, who was replying to questions from Mr Peter Soal (PFP, Johannesburg North), said 556 people who were sentenced to death — 55,9% of the total — were refused leave to appeal against their sentences

His figures show that 6,2% of the people sentenced to death had their sentences altered or reduced, 2,6% had their convictions and 11,6% had their sentences commuted by the State President

However, 59,7% of the 994 people sentenced to death were in fact executed

Mr Coetsee said "no" consideration was being given to reviewing the grounds on which the death penalty could be imposed

Mr Soal asked whether consideration was being given to providing more experienced senior counsel in respect of pro deo defence

Mr Coetsee replied "In terms of the present pro deo system, everyone who is accused of a capital crime, is entitled to pro deo defence

"During the pre-trial procedures, it however happens that the accused indicates that he prefers to appoint his own legal representative

"Should the accused in fact require pro deo defence, the Bar Council concerned is requested to appoint a pro deo counsel for the accused

"The decision as to which advocate is to be appointed, therefore rests with the Bar Council concerned," Mr Coetsee said

PRETORIA — Three men were yesterday hanged after four others, who were also due to have hanged, were granted a stay of execution

Those executed were: Johannes Otto, 40, David Johannes Jakobus Booysen, 23, and Piet Mkhonto, 32 — Sapa

Questions in the House

(252)

Death sentences commuted

President Botha had commuted 115 death sentences between 1983 and the end of 1987, the Minister of Justice, Mr Kobie Coetsee, said in written reply to a question from Mr Peter Soal (PFP Johannesburg North) in the House of Assembly yesterday

He said 994 people were sentenced to death over the same period, 182 of them in 1983, 168 in 1984, 189 in 1985, 207 in 1986 and 248 in 1987 Of this total, 593 had been executed Star 23/6/88

Information on how many of those sentenced to death had been defended by *pro deo* counsel was not readily available in the department

Asked whether consideration was being given to providing more experienced senior counsel for *pro deo* defences, Mr Coetsee said the decision as to which advocate was appointed rested with the Bar Council concerned

115 are saved

Sowetan 24/6/88

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THE State President commuted 115 death sentences between 1983 and the end of 1987, the Minister of Justice, Mr Kobie Coetsee, said in a written reply to a question from Mr Pieter Soal (PFP Johannesburg North).

He said 994 people were sentenced to death over the same period, 182 of them in 1983, 168 in 1984, 189 in 1985, 207 in 1986 and 248 in 1987. Of this total 593 had been executed.

Defended

Information on how many of those sentenced to death had been defended by pro deo counsel was not readily available in the department.

Asked whether consideration was being given to providing more experienced senior counsel for pro deo defences, Mr Coetsee said the decision as to which advocate was appointed rested with the Bar Council concerned. — Sapa.

THE JUDICIARY 252

Political purposes

Various aspects of the judicial process have come under strong attack from academic lawyers over the past year. Prominent in these exchanges has been advocate Edwin Cameron. His views on such matters as the lawfulness of the appointment of Mr Justice Rabie as Acting Chief Justice (seen by Cameron to be both unlawful and unconstitutional), earned him the ire of the Minister of Justice, Kobie Coetsee. He issued a statement disparaging "the young Cameron" as a "lesser known officer of the court" and condemning his views as "distasteful and improper"

Recently Cameron was in the news again. An article of his was published in the *Sunday Times* criticising the judgment of the court in the "Sharpeville Six" case for an unwarranted extension of the doctrine of common purpose He suggested that the doctrine had been widened "in response to evidence of township revolt," that is, on political (and hence unacceptable) grounds, rather than on legal grounds This time, criticism of Cameron came from the Acting Chief Justice himself, who made comments at the national Bar conference in Cape Town to the effect that Cameron's conduct was little short of shocking and disgraceful.

In a recent lecture at Wits, Professor Etienne Mureinik assessed the significance of these interchanges His central conclusion is that Mr Justice Rabie should be congratulated for having entered into the debate This conclusion is surprising, because lawyers have long adhered to what is termed the doctrine of "judicial uncontroversiality." This holds that judges should not enter into public controversy or comment extra-judicially on issues which might (or have) come before them

Mureinik believes this doctrine, and the associated one that judges are sacrosanct, to be dangerous. He notes that they are not mere private individuals. "They are the third arm of government, and in them there reposes a power nothing short of political. When they exercise it, they do that for the community and over the community Every member of the community has a right to say whether he or she approves of the way in which they are doing it . It is in the interests of good judging itself that judicial decisions be the subject of candid and vigorous public debate."

The susceptibility of judges to public criticism derives thus from their character as public officials in whom political power resides. Mureinik believes that by making the comments he did, the Acting Chief Justice committed himself to the proposition that judges should not consider the public fray beneath their dignity. And it follows from this that his comments are "an affirmation of the legitimacy of criticising the judges," for his willingness to criticise others must recognise their right to do the same

Mureinik goes into some detail in explaining the duty of the academic lawyer to monitor and evaluate the performance of the judiciary In a country where the Rule of Law burns such a fragile flame, it is heartening to hear of this determination not to allow the functions of law to be swept away by ministerial bluster And as Mureinik notes "If they who speak for the judiciary find the observations of human rights lawyers provocative, they ought to remember that the record of the law, and of the judges, is itself rich in provocation." ■

(252) B/day 24/6/88

NEWS FOCUS

Why the Six were convicted

A REPORT in Business Day on the Sharpeville Six, published on June 22, did not adequately reflect the grounds on which each of the accused was convicted of murdering Lekoa Town Council deputy mayor Khuzwayo Dlamini on September 3, 1984.

In view of the importance of the case, Business Day publishes a more detailed account of the court findings

☐ **MOJALEFA REGINALD SEFATSA, 32.** The court found he had played an active role in the killing He was identified by Dlamini's widow, who said he threw a stone which felled her husband as he tried to escape to a neighbour's house She said Dlamini called out "Ja-Ja, what are you doing?" She did not know that "Ja-Ja" was Sefatsa's nickname.

Another witness, who knew Sefatsa well, said he saw Sefatsa grappling with Dlamini and others for Dlamini's pistol. The court found that this did not necessarily conflict with the widow's evidence that he had thrown a stone Both were reliable witnesses

The court rejected Sefatsa's evidence that he was elsewhere at the time of the incident It also accepted police evidence that, two months later, he had taken police to the house of another accused, Oupa Diniso, where the firearm was discovered. It found that Sefatsa could not have known about the pistol had he not been on the scene The evidence showed that both Sefatsa and Diniso were involved in disarming Dlamini.

☐ **REID MALEBO MOKOENA, 24.** He was convicted on the basis of statements he made to a magistrate and a policeman, and in a letter to the Minister pleading for his release, written while he was in custody. In these statements he admitted being present and that he had thrown a stone which hit Dlamini

The court rejected Mokoena's evidence that he had made the incriminating statements under police duress, and his denials that he had been present It found the statements showed he had been on the scene, had associated himself with the attack on Dlamini and in fact took part in it. Some aspects of his statements on the period when he was present were confirmed by other evidence, the court found.

☐ **OUPA MOSES DINISO, 32.** The court accepted police evidence that accused No. 1, Sefatsa, had taken the police to Diniso's house and that the firearm found there was the one taken from Dlamini.

It rejected Diniso's evidence that he had taken the gun from a group of boys the day after the killing, on his way home from golf Diniso could not say how Sefatsa knew he had the gun The court concluded they had both been present when Dlamini was disarmed In taking Dlamini's weapon, they had eased the task of the crowd in stoning and killing him

☐ **THERESA RAMASHAMOLA, 27.** Evidence was given that Ramashamola had been injured on the head by a rubber bullet in an earlier incident that day. She denied returning to the scene when the crowd regrouped.

However, the court accepted evidence by a witness, who knew her well, that she had been there and had played an active role The witness said she had shouted "He's shooting at us — let's kill him" when Dlamini fired into the crowd He also said she had worn a bloody "doek" on her head, and had slapped a woman who appealed to the crowd not to burn Dlamini's body.

The court accepted this evidence It concluded she had urged the crowd on, and associated herself with the burning

☐ **DUMA JOSHUA KHUMALO, 28.** The court accepted evidence that Khumalo had been seen making petrol bombs, that he had sprinkled petrol on the kitchen door and set it alight, and helped push Dlamini's car into the street. Another witness testified Khumalo had been among the people throwing stones

Khumalo said he had been forced to accompany the crowd to Dlamini's house in the earlier incident, and had helped a friend injured at that time by taking him to a nearby house for treatment. The court accepted this, but rejected his claim that he had not gone back and taken an active role in the burning of the house It found he had intended to kill Dlamini

☐ **FRANCIS DON MOKGESI, 31.** A soccer player, Mokgesi testified that he had an injured ankle at the time, and had been at home on the day of the killing His wife supported him.

The court accepted evidence about the soccer injury, but found it was not severe enough to have prevented him from being at the scene

It rejected his denials of evidence by the same witnesses, X and Y, who testified against Khumalo and found he had made petrol bombs and shown others where to throw them. Like Khumalo, he had been actively involved in the crowd's common purpose of killing Dlamini by setting fire to the house

Tale of the tapes

Sowetan 24/6/88

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LAWYERS acting for the families of the 12 people killed during security force action in Mamelodi three years ago, will give reasons before a Pretoria North inquest court today why they oppose the magistrate's judgement on video tapes submitted as exhibits this week.

The inquest into the deaths of the 12 people, who include pensioners was postponed again yesterday following a delay by the police to give lawyers representing the families the four video tapes that showed scenes of crowds of people who had gathered in front of the administration board offices on the morning of November 21, 1985

The magistrate, Mr J M Pretorius, after viewing the four tapes on Tuesday afternoon, said he had observed that although the large crowd was well-behaved and had waved to the police earlier, "the mood of the people changed as the numbers increased".

His observation was challenged by Mr Morris Basslian, assisted by Mr Dikgang Moseneke, who argued that no incidents of violence could be detected on all the tapes He also submitted that the magistrate had ignored several relevant facts on the tapes

(252) B/day 27/6/88.

A selective conscience carries little weight

KEN OWEN

THE FATE of the Sharpeville Six, sentenced to death for their part in the mob killing of Lekoa deputy mayor Khuzwayo Dlamini in September, 1984, has grown to become something more than a murder trial, more even than a political question. It is a touchstone of attitudes.

Like the execution of Julius and Ethel Rosenberg in America, or in Germany the murder of Rosa Luxemburg, the death sentences on the Sharpeville Six bring into focus the deep divisions that sunder this society

To suggest, among American radicals, that the Rosenbergs were communist spies, fairly tried and justly executed, is to damn oneself as a "McCarthy-ite" The murder of Rosa Luxemburg by German soldiers is a more subtle test to be unaware of her brilliance as a Marxist polemicist and as a critic of Stalin is taken as a sign of the moral insensitivity that precedes Nazism

In either case, debate is crushed before it can start To debate is to stand condemned

In Britain, otherwise sensible people are proclaiming grandly that the Sharpeville Six case "could never happen under British law" The BBC, less fastidious with the truth than most of what used to be called Fleet Street, has presented it as a matter of hanging people for a crime they did not commit, but this is not so

In fact, the Sharpeville Six case is almost a carbon copy of a notorious case in which two young robbers shot and killed a policeman. The younger actually pulled the trigger, but because of his youth his life was spared; the older, though he had not actually carried out the killing, was sentenced to death

The Sharpeville Six case is, if anything, less problematical Dlamini, the court found, was flushed from his house by a mob who prepared petrol bombs, set his house on fire, felled him with stones as he tried to flee, disarmed him of his revolver and set him on fire

Theresa Ramashomola was found to have urged the crowd on, and to have slapped a woman who tried to intervene, Reginald Sefatsa was found to have thrown the stone that felled Dlamini as he fled; Joshua Khumalo was found to have made petrol bombs, and to have sprinkled petrol on the door of Dlamini's house, and to have set it alight, Francis Mokgesi was found to have made petrol bombs and shown others how to do so. The remaining two were found to have associated themselves with the attack, though less directly.

All avenues of appeal have been exhausted, and there is no reason to doubt the findings of the court. The date of the murder is of significance: it preceded the so-called "invasion of Sebokeng" by the army — which is supposed in radical mythology to have set off the violence of the following three years — by about seven weeks.

The State President must now decide whether to commute the sentences of all or some of them It is not a decision which anybody would wish to usurp

For many people, of course, the death sentence itself is so abhorrent as to demand a reprieve. The usual argument is that there is no evidence that the death sentence deters murderers, but that argument is dubious. Since the Sixties, some statistical evidence has been published to show that the death sentence does reduce the murder rate by a measurable amount.

The better argument against the death sentence — in my mind, the only convincing one — is that it is barbaric and it brutalises the society that imposes and executes it But, with George Bernard Shaw, I wonder if a life sentence in prison is not worse

One qualification does need to be made Nobody who failed to protest at the township necklacings, of which Dlamini's murder was the obvious forerunner, and nobody who failed to protest at the death of Steve Biko or the lawless killings carried out from time-to-time by the police, has much moral claim to demand mercy for the Sharpeville Six A selective conscience carries little weight

There is another consideration While the court found no extenuating circumstances in regard to any of the six, it is plain that not all six were equally culpable Some, on the facts established by the court, were ringleaders of a mob that set out deliberately to murder a council official.

There is no evidence, so far as I am aware, that they were carrying out the instructions to "eliminate collaborators" which were being broadcast about that time from Lusaka and Addis Ababa by the ANC, but the coincidence is, to say the least, remarkable.

It is more remarkable if one recalls that village headmen in Vietnam were similarly executed in order to make the country "ungovernable". At least, the actions of the Sharpeville Six corresponded with well-tried techniques

This raises, of course, the underlying issue which fuels the entire campaign on behalf of the Sharpeville Six — the vexed question of political justification for murder The issue is a classical one, perfectly captured in John Harington's 1615 epigram "Treason doth never prosper for if it prosper, none dare call it treason"

If government had been overthrown in September, 1984, the Sharpeville Six would now be heroes, perhaps parading names like "Spillblood," not condemned prisoners. Successful treason is its own justification, and murders carried out in pursuit of revolution are punished only if the state can defend its sovereignty The outcome is the test.

The campaign on behalf of the six is invested, intentionally, I am sure, with the implication that the Nationalist government, along with all the institutions of its rule, including the courts, is so unjust that it lacks all legitimacy, that its laws are not justly enforceable and its officials are legitimate targets for murder Bring on the necklace

This is where the Sharpeville Six case begins to resemble the Rosenberg and Luxemburg cases it has been elevated into a *cause célebre* in order to force a judgment on the legitimacy of Nationalist rule Vote to uphold the law against murder, and you uphold the legitimacy of the apartheid state, vote for reprieve, and you cast doubt on that legitimacy. The choice is the touchstone

A decision to execute the six will unleash, without doubt, a fresh wave of international pressure on this country. But that, ironically, is not something President Botha can take into account without acknowledging that doubt does exist about the legitimacy of his government In the end, the possession of power includes the confidence to use it.

I think, therefore, that he should ignore the threat of external pressure, and simply do his humane best, for reasons of pity, to find grounds to reprieve as many of the six as he can spare, but the choice, thank God, is not mine to make, and I shall not criticise him, whatever he does Even in the exercise of power, there comes a point where individual conscience is the only guide

UK rejects strong action over Six

B/day

MIKE ROBERTSON (252)

LONDON — On the eve of the EC summit in Hanover, British Foreign Secretary Sir Geoffrey Howe has firmly rejected appeals to recall his SA ambassador if the Sharpeville Six are hanged

EC leaders, except the UK, are expected to ratify a sanctions package drafted by West Germany.

The West German government has undergone a major policy shift in favour of sanctions

The package will be triggered if the Sharpeville Six are hanged Ambassadors will be recalled and SA diplomatic presence in EC countries will be cut down.

This will result in SA diplomatic strength being cut by almost two-thirds in EC countries

Howe said as the Sharpeville Six were likely to be granted a stay of execution beyond July 19, it was academic to discuss whether the hangings would spark diplomatic sanctions

28/6/88

Cape Times 28/6/88

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Britain won't recall envoy if Six hang

From MIKE ROBERTSON

LONDON. — On the eve of the European Economic Community (EEC) summit in Hanover, the British Foreign Secretary, Sir Geoffrey Howe, has firmly rejected calls to recall the British Ambassador to South Africa if the Sharpeville Six are hanged.

EEC leaders, with the exception of Britain, are expected to ratify a sanctions package, drafted by West Germany in its role as community president.

The package, which will be put into action if the Sharpeville Six are hanged, includes the recall of ambassadors and cutting down the South African diplomatic presence in EEC countries to the same level as that of the 12 EEC states in South Africa

This will result in South Africa's diplomatic strength being cut by almost two-thirds

Interviewed by the International Herald Tribune, Sir Geoffrey said that as the Sharpeville Six were likely to be granted a stay of execution beyond July 19 it was academic to discuss whether the hangings would spark diplomatic sanctions

"We don't think that a fact of that kind — however tragic and however deeply to be regretted it would be — should justify any change in our central view on economic sanctions nor, indeed, on continued representation by an ambassador in Cape Town and Pretoria

"We belive that the removal of apartheid — which we devoutly wish — is more likely to be hastened by sustained advocacy, and not by the kind of isolation implicit in economic sanctions, which would drive the decision-makers in South Africa further in the wrong direction"

However, while Britain is standing firm, the conservative West German government has undergone a major policy shift on sanctions

According to Dr Rudolph Gruber, the South African Foundation representative in Bonn, the banning of the UDF and other extra-parliamentary groups on February 24 marked a watershed for the change in West German attitudes

West German opposition to sanctions, he says, was based on a belief that evolutionary change through negotiation was still possible

"Now the feeling is that Pretoria has turned its back on negotiations and they can no longer hope for progress in this direction.

"The feeling is that the National Party is hanging on to white power and privilige and is not sincere in what it has been saying"

Foreign Minister Mr Hans-Dietrich Genscher, whose influence has grown since Chancellor Helmut Kohl backed him in a clash over South African policy with Bavarian leader Mr Franz Josef Strauss, has decided to link any future action against South Africa to the Sharpeville Six

'Spirit of lawlessness' revealed in SA's international dealings

Star 29/6/88

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By Esmaré van der Merwe

Violation incidents such as the recent South African Defence Force raid in Botswana indicated a new "spirit of lawlessness" in the country's international affairs, said human rights specialist Professor John Dugard

Human rights were "definitely not on the agenda of the present political system", he told a meeting of the University of the Witwatersrand's Alumni Luncheon Club yesterday

Since 1948, the National Party had used the legal system to promote racism and political oppression.

Although many South Africans were astonished that the country was singled out as a human rights violator, sanctions were a direct result of the Government's virtual ignorance of human rights

The Government should be credited for reform initiatives such as the abolition of influx control and the scrapping of the Mixed Marriages Act. However, segregated schools, the Group Areas Act and a constitution based on racial classification were evidence that the basic structure of apartheid still remained, said Professor Dugard

He said South Africa's common law system was one of the most enlightened in the world However, apartheid laws took precedence over the common law

"The common law contains the capacity to remedy the situation. If it was allowed to function freely, there would be no need for a Bill of Rights,"

Professor Dugard said a government's level of compassion could be measured by its attitude towards the death penalty

Last year, South Africa had the highest rate of executions in the free world, when 164 people were hanged.

(252) B/day 29/6/88

Right to a defence under the law

A landmark judgment in the Natal Supreme Court has held that trials in which accused have no legal representation can be declared unfair, and the convictions quashed. MICHAEL ACOTT reports on the guidelines set out in the judgment

IN THE Natal Supreme Court last week, Mr Justice Didcott set a new ideal for South African courts — working towards a system in which poor people, particularly blacks, would not face trial with potentially serious consequences unless they had legal representation

The judge said only a shortage of lawyers and a lack of legal aid funds prevented him from ordering this rule applied immediately

After a review of SA and international judgments on legal representation, Mr Justice Didcott said South African courts should work towards the system now pertaining in America, where no person could be deprived of "life, liberty or property" unless he was defended by a lawyer or opted to conduct his own defence

In the meantime, he would apply a system similar to that imposed by an earlier US judgment which required legal assistance in cases where the lack of a lawyer constituted "a denial of fundamental fairness"

He noted that his compromise would nevertheless require a "huge enlargement of our legal aid scheme" if it was to cater adequately for every criminal case where help might be necessary

His judgment extends a Transvaal ruling earlier this year in which Mr Justice Goldstone said there could be a "complete failure of justice" unless the accused was informed of his right to legal representation and encouraged to exercise it

Natal courts are now compelled to ensure legal representation for the accused in certain cases.

Setting aside convinction and sentences on two undefended people accused of housebreaking, Mr Justice Didcott laid down a set of rules where an accused has no lawyer because he is too poor to pay for one

His judgment is binding in Natal and has persuasive effect in other provinces

Natal courts are now required to consider three aspects of a case before allowing a trial to proceed without a lawyer They are

☐ The inherent simplicity or complexity of the case,

☐ The apparent ability of the accused to fend for himself, based on how mature, sophisticated, intelligent and articulate he seems, and

☐ The gravity of the case. This includes the nature of the alleged offence and the possible consequences of conviction for the accused, ranging from imprisonment or a heavy fine to loss of employment, forfeiture of a licence and deportation

The judicial officer must "ask himself whether their cumulative effect is such that the man would be placed at a disadvantage palpable and gross, that the trial would be palpably and grossly unfair, were it to go ahead without a lawyer for the defence"

If this is so, the case must immediately be referred to a legal aid scheme or a lawyers' association willing to offer assistance *pro bono* The trial must not proceed until representation is procured

Mr Justice Didcott said that, where the judicial officer decided circumstances did not warrant legal representation, a conviction could nevertheless be set aside on appeal or review if the Supreme Court found [illegible] represented

This would not be a reflection on the judicial officer, who had to decide in advance on "prophesy or speculation" about the man's competence to run his own defence and the impact on him of the result The Supreme Court would have the trial record on which to base its decision

Mr Justice Didcott said his ruling did not apply to cases where an accused, understanding his right to legal representation, waived that right

It would also not apply to petty cases, where those would could afford a lawyer would probably not engage one, and the most serious cases, which were heard in the Supreme Court and where counsel defended *pro deo* anyone who wanted assistance

Between the two extremes lay "a dense mass" of trials to which his ruling would apply

Mr Justice Didcott said his ruling fully covered the case on review before him The accused had been convicted solely on the evidence of fingerprints found in a house which had [illegible]

Although the magistrate had helped them as much as he could, he had not told them that they could have legal representation The accused, who denied ever being near the scene of the crime, had been "all at sea" in conducting their own defence and had not known how to cross-examine the fingerprint experts or try to rebut their evidence

Mr Justice Didcott said he could have quashed the convictions on the basis of Mr Justice Goldstone's ruling The heart of the matter, however, was not the right to legal representation but the likelihood of most accused in SA obtaining it

"Relatively few of those charged in this country with crimes can afford to pay for the hire of a lawyer And the funds supplied for legal aid are too meagre to cope with more than a small proportion of the cases in which it is needed

"The spotlight then shifts, moving from the right to a representation that is obtainable and falling instead on a right to be provided with representation once it is wanted but otherwise out of reach

"And the question arising is whether the time has not come at last for our courts, which have long recognised and upheld the first right, to [illegible]

Noting that the preamble to the 1983 Constitution set the equality of all under the law as a national goal, he said SA could not pay lip service to this commitment by recognising a right to representation no pauper could hope to exercise

"The public conscience of this country, the conscience of its people as a whole, can scarcely rest with any comfort on the thought of thousands standing trial in our courts daily who have no legal assistance because they are too poor to bear the cost"

The State rightly brought massive resources to bear on the task of prosecution, since no amateur could adequately perform it Where an accused had to conduct his own defence, an amateur deemed innocent until proven guilty, "the odds are stacked against him, and stacked heavily"

The average layman knew nothing of the rules of evidence, of the criminal law's subtleties, of concepts which gave lawyers trouble enough and must mystify everyone else.

He did not know what counted in law and what did not, which pieces of evidence to try to refute, which facts he should advance in his defence and had no skill in cross-examination

"On top of everything else, he labours throughout under the disadvantage of an environment that cows him, at atmosphere that chills him It saps his self-confidence"

There were further tribulations for those defending themselves The black majority suffered additional hardships in that many were illiterate, few spoke or understood either official language and much of South African jurisprudence was alien to their culture and traditions

"Entangled in the workings of a legal machinery that bewilders him, he has the most to gain from a lawyer's help and the most to lose from the lack of it Yet the barrier of poverty stands highest in his very case"

Mr Justice Didcott found nothing in South African law or judgments precluded him from proclaiming and [illegible]

252

Too poor for lawyer, so judge throws out case

The Argus Correspondent

DURBAN — A landmark judgment was handed down in the Supreme Court, Maritzburg, when the conviction and sentences of two men charged with housebreaking were quashed because they had had no legal representation at their trial

Lawyers for Human Rights chairman Mr Jules Browde said yesterday that if the judgment was followed it would lead to an important improvement in the administration of justice.

The men, Mr P Khanyile and Mr M Mkwanyana, had been convicted for housebreaking on the evidence of fingerprints. The case then appeared before Mr Justice Didcott on automatic review.

The judge said: "Like so many South Africans who face criminal charges, the two men had no lawyer to advise and represent them They were quite at sea, the record shows, and far beyond their depth."

"TOO POOR"

The magistrate had not told the men they were entitled to legal representation and had not offered them the opportunity to obtain it.

Mr Justice Didcott said the odds were stacked against a layman who tried to defend himself, not because he chose to do so but because he was too poor to afford a lawyer.

"He knows nothing about the rules of evidence, of the criminal law's subtleties; has no real grasp of what counts in law.

"He labours throughout in an environment that cows him; that chills him. It saps his self-confidence. Any prospect he has of presenting his defence in a calm, clear and orderly way may well be ruined"

Additional hardships were endured by blacks, many of whom were illiterate and did not speak either official language and had to rely on interpreters.

ONE SOLUTION

"The public conscience of this country can scarcely rest with any comfort on the thought of thousands standing trial in our courts daily who have no legal assistance because they are too poor to bear the cost," he said.

The only solution was a "huge enlargement" of the legal aid scheme and an immense increase in funds, paid by the taxpayer, to finance the scheme. There would be a need for "lawyers galore".

But is was impossible for the courts to insist on a lawyer for the defence in every trial of any consequence — "criminal work would be thrown into chaos".

The judgment is binding on Natal courts and "persuasive" in other provinces.

Maggie warns sanctions could affect 'Six'

B/day 29/6/88 (252)

Own Correspondent

HANOVER — British Prime Minister Margaret Thatcher once again steered the Common Market away from demanding sanctions against SA yesterday

She warned that threats of trade and diplomatic action against Pretoria could tip the balance against the Sharpeville Six

EC leaders agreed reluctantly to a simple non-committal statement appealing for clemency

Britain had been under pressure to take firmer steps against SA but, after heated exchanges between community Foreign Ministers at talks last night, UK resistance to strong measures won through

Other member states wanted the imposition of sanctions, including a reduction in EC diplomatic staffs in SA, restrictions on SAA landing rights in Europe and the withdrawal of ambassadors

But Foreign Secretary Sir Geoffrey Howe insisted that the time was wrong to deliver ultimatums or launch sensitive sanctions

Yesterday's statement does not refer to possible actions if the Sharpeville Six are executed, despite the latest pleas for clemency

But if the executions go ahead, the UK will come under fresh pressure to give up its long standing reluctance to impose sanctions

Furthermore, intimidation was rampant during the large-scale unrest and attempts to make the country ungovernable Murder and assault of members of the Security Forces and law-abiding persons, as well as serious crime against their property, was aimed at intimidating everybody who favours peaceful reform in the country I am not prepared to contribute to such a campaign of slander and intimidation by making known this information

At the same time I would like to point out to the honourable member, that in all cases where persons are killed or injured by anyone, the recognised and trusted legal process of the land takes its normal course Such cases are investigated thoroughly and, if warranted, come before our courts, where they are tried by competent and independent jurists

Taking everything into consideration, I am therefore convinced that it is not in the best interests of our country and its people to furnish the requested information

Rioting· injuries/damage/arrests

250 Mr S S VAN DER MERWE asked the Minister of Law and Order

(1) How many members of the South African Police were (a) killed and (b) injured in the Republic in attempts to contain rioting in 1987,

(2) (a) how many buildings belonging to (i) the State and (ii) private individuals were destroyed or damaged as a result of rioting in 1987 and (b) what is the estimated (i) value of the buildings so destroyed and (ii) amount of damage so sustained,

(3) (a) how many arrests of civilians were made in this connection in 1987, (b) on what charges were they arrested and (c) how many such civilians were still being detained as at the latest specified date for which figures are available?

The MINISTER OF LAW AND ORDER

(1) (a) 16 members

(b) 148 members

(2) (a) and (b) I do not consider it in the public interest or in the interest of the country to furnish this information

(3) (a) 1895 persons

(b) On charges of various crimes *inter alia*

Public violence
Malicious damage to property
Intimidation
Murder
Attempted murder
Rape
Assault

(c) 185 persons awaiting trial on 11 February 1988

NOTE A large percentage of the persons referred to in paragraph 3(a) above had already been tried and convicted

Caiphus Nyoka. inquest

253 Mr S S VAN DER MERWE asked the Minister of Law and Order

(1) Whether, with reference to his reply to Question No 20 on 8 September 1987, an inquest was held or is to be held into the death of Caiphus Nyoka in Daveyton on or about 24 August 1987, if not, why not, if so, when,

(2) whether a post-mortem was held following the death of this person, if not, why not, if so, when,

(3) whether any persons were arrested or detained by the Police at the time Caiphus Nyoka was shot, if so, (a) what are their names, (b) in terms of what statutory provisions were they arrested or detained in each case and (c) what was the status of these persons as at the latest specified date for which information is available?

The MINISTER OF LAW AND ORDER

(1) Yes, on 25 and 26 February 1988

(2) Yes, on 26 August 1987

(3) (a) to (c) Yes five persons were arrested in terms of section 51(1) and (4) of the Internal Security Act, 1982 (Act 74 of 1982) Three of these persons were released on 26 August 1987 The other two persons are at present awaiting trial on charges of Terrorism in terms of section 54(1) of the Internal Security Act, 1982

(Act 74 of 1982) and will be tried on 13 July 1988 However, it is not in the interests of these persons or anybody else to furnish their names

Unrest: deaths/injuries

276 Mr R R HULLEY asked the Minister of Law and Order

(1) With regard to 1987, (a) what total number of persons was (i) killed and (ii) injured in unrest, (b) how were they killed or injured in each case, (c) how many persons were killed or injured by members of the South African Police acting in the course of duty and (d) how many persons were killed or injured by gunshots,

(2) whether any members of the Police were (a) killed and (b) injured in unrest 1987, if so, (i) how many and (ii) what was the cause of death or injury in each case?

The MINISTER OF LAW AND ORDER

(1) and (2)

I refer the honourable member to my reply to written question 247 which I also regard to be a sufficient answer to this question

Overseas visits

578 Mr P G SOAL asked the Minister of National Education

(1) Whether he undertook any overseas visits in 1987, if so, (a) which countries were visited and (b) what was the purpose of each visit,

(2) whether he was accompanied by any representatives of the media on these visits, if so, (a) what were the names of the journalists involved, (b) which newspapers or radio or television networks did they represent, (c) to which countries did each of these persons accompany him and (d) why,

(3) whether any costs were incurred by his Department as a result if so what total amount in that year?

The MINISTER OF NATIONAL EDUCATION

(1) No

(2) Lapses

(3) Lapses

Extradition treaties with other countries

997 Mr C J DERBY-LEWIS asked the Minister of Justice

(1) Whether South Africa has extradition treaties with other countries, if not, under what circumstances are persons extradited from South Africa, if so, with how many countries,

(2) whether he will furnish the names of these countries, if not, why not, if so, what are their names?

The MINISTER OF JUSTICE

(1) Yes South Africa has extradition treaties with certain countries If a person commits an offence within the jurisdiction of a foreign State which is not a party to an extradition agreement, such a person would also be liable to be surrendered to such foreign State with the written consent of the State President in accordance with the provisions of the Extradition Act, 1962 (Act 67 of 1962) The number of countries with which South Africa has extradition treaties cannot be given since previously the United Kingdom had entered into a number of extradition agreements that were also applied to South Africa and whereas in terms of the Extradition Act, 1962 South Africa declared itself to continue to be bound by those extradition agreements still in force at that time, the question as to which of those extradition agreements can be said to be in force now, will depend on the particular circumstances of every case

(2) For the reasons mentioned in (1) above, no complete list of countries with which South Africa has extradition agreements is available Should the honourable Member want information about any particular country, he can approach the Department

No Christian gospel basis to bill of rights — lawyer

Star 29/6/88

252

The claim that a bill of rights was a cure for injustice was a misrepresentation, Professor J M Potgieter of Unisa's Department of Private Law said in Pretoria last night.

Professor Potgieter, in an inaugural lecture, "Thoughts on the Christian Foundation of Human Rights", said many jurists and Church leaders supported the introduction of a bill of human rights on the grounds that it was necessitated by the Christian gospel

Professor Potgieter said investigation had proved that the doctrine of human rights originated outside Christianity and that Christ "neither demanded human rights for Himself nor did He teach others to do so, and that a person who persists in sin does not reflect the image of God from which human rights can be derived"

"Therefore, the human rights doctrine has no more of a Christian basis than the policy of apartheid which, until recently, was also justified on Christian grounds by certain Churches which now reject it.

"Consequently, rather than campaigning for political and legal reform on erroneous grounds and without a political mandate, Church leaders should give their full attention to the moral decay and spiritual bankruptcy among many of their members by persuading them, through the true gospel of Christ, to mend their ways" — Sapa.

of Justice who will provide him with all the necessary information

Subjects available to Std 10 pupils

1061 Mr K M ANDREW asked the Minister of Education and Development Aid

What are the subjects available to Std 10 pupils at each specified secondary school for Blacks in the Western Cape?

The MINISTER OF EDUCATION AND DEVELOPMENT AID

At each specified secondary school Religious Education, Physical Education and Guidance is offered as non-examination subjects

The examination subjects available to Std 10 pupils at each specified secondary school from the beginning of 1988 are as follows

(a) CROSS ROADS SECONDARY SCHOOL

Afrikaans English, Xhosa, Mathematics, Physical Science, Biology, Geography, History

(b) FEZEKA SECONDARY SCHOOL

Afrikaans, English, Xhosa, Sotho, Tswana, Mathematics, Physical Science, Biology, Geography, History

(c) I D MKIZE SECONDARY SCHOOL

Afrikaans, English, Xhosa, Mathematics, Physical Science, Biology, Geography, History

(d) INTSHUKUMO SECONDARY SCHOOL

Afrikaans English, Xhosa, Mathematics, Physical Science, Biology, Geography, History

(e) ISILIMELA SECONDARY SCHOOL

Afrikaans English, Xhosa, Mathematics, Physical Science, Biology, Geography, History, Accounting, Business Economics, Economics

(f) LAGUNYA SECONDARY SCHOOL (FINISHING)

Afrikaans English, Xhosa, Mathematics, Physical Science, Biology, Geography, History, Biblical Studies, Physiology, Introduction to Criminology, Business Economics, Economics, Accounting

(g) LANGA SECONDARY SCHOOL

Afrikaans, English, Xhosa, Mathematics, Physical Science, Biology, Geography, History

(h) LUHLAZA SECONDARY SCHOOL

Afrikaans, English, Xhosa, Mathematics, Physical Science, Biology, Geography, History, Biblical Studies, Accounting, Business Economics, Typing

(i) MALISO SECONDARY SCHOOL

Afrikaans, English, Xhosa, Mathematics, Physical Science, Biology, Geography, History, Biblical Studies

(j) SIMON HEBE SECONDARY SCHOOL

Afrikaans, English, Xhosa, Mathematics, Physical Science, Biology, Geography, History, Accounting, Business Economics, Agricultural Science

(k) SIZAMILE SECONDARY SCHOOL

Afrikaans, English, Xhosa, Mathematics, Physical Science, Biology, Geography, History, Home Economics, Biblical Studies

(l) VUSISIZWE SECONDARY SCHOOL

Afrikaans, English, Xhosa, Mathematics, Physical Science, Biology, Geography, History

Pupils transported in subsidized buses

1064 MR R M BURROWS asked the Minister of Education and Development Aid

(a) What total number of pupils was transported daily in subsidized school buses, and (b) what was the total net annual cost of such transport, in each region in (i) 1986 and (ii) 1987?

The MINISTER OF EDUCATION AND DEVELOPMENT AID

(a) Total number of pupils that was transported daily in subsidized school buses

Regional	1986 Disabled pupils	1986 Pupils for technical orientation	1986 Total	1987 Disabled pupils	1987 Pupils for technical orientation	1987 Total
Johannesburg	540	11 985	12 498	705	11 958	12 663
Cape	540	4 600	5 140	660	4 600	5 260
Northern Transvaal	125	4 700	4 825	130	3 700	3 830
Highveld	200	14 015	14 215	270	14 015	14 285
Orange-Vaal	60	2 353	2 413	90	2 353	2 443
Oranje Free State	130	4 792	4 922	160	3 792	3 952
Natal	210	1 500	1 710	220	1 500	1 720
TOTAL	1 805	43 945	45 723	2 235	41 918	44 153

(b) Total net annual cost

Region	1986 Disabled pupils	1986 Pupils for technical orientation	1986 Total	1987 Disabled pupils	1987 Pupils for technical orientation	1987 Total
Johannesburg	135 000	242 000	377 000	176 250	251 000	427 250
Cape	135 000	124 000	259 000	165 000	128 000	293 000
Northern Transvaal	31 250	41 000	72 250	32 500	43 000	75 500
Highveld	50 000	149 000	199 000	67 500	154 000	221 500
Orange-Vaal	15 000	34 000	49 000	22 500	35 000	57 000
Orange Free State	32 500	72 000	104 000	40 000	74 000	114 000
Natal	52 500	48 000	100 500	55 000	50 000	105 000
TOTAL	451 250	710 000	1 161 250	558 750	735 000	1 293 250

Institutions for juvenile offenders

1067 Mr J B DE R VAN GEND asked the Minister of Education and Development Aid

(1) (a) How many (i) schools of industry, (ii) reform schools and (iii) other institutions for the accommodation of juvenile offenders falling under the Department of Education and Training were there in the Republic, and (b) what number of pupils did each accommodate, as at (aa) the latest specified date for which information is available and (bb) the same date five years previously,

(2) where is each of these schools or institutions situated?

The MINISTER OF EDUCATION AND DEVELOPMENT AID

(1) (a) (i) Two schools of industries

(ii) One reform school

(ii) None

(b) (aa) None

(bb) None

According to planning these schools will only start admitting pupils as from the end of July 1988 and will eventually together accommodate 936 pupils

(2) Refer to 1(a)(i) and (ii)

Schools of Industry Simondium and Kinross

Reform School Rawsonville

Condition of release of prisoners

1078 Mr C J DERBY-LEWIS asked the Minister of Justice

(1) Whether the renunciation of violence has been dropped as a condition of release in respect of prisoners serving sentences for crimes against the security of the State, if so, (a) with effect from what date and (b) what effect is this step anticipated to have on such prisoners in general,

Cape Times 30/6/88

Lawyer lauds Natal Bench ruling

Own Correspondent

252

JOHANNESBURG. — The judgment given in Natal last week which compels legal representation for accused in certain cases was "a victory for the human rights movement in South Africa", the director of Lawyers for Human Rights (LHR), Mr Brian Currin, said yesterday.

In what has been described as a landmark for the legal system, Mr Justice Didcott held that conviction in certain cases could be set aside on review if the accused had not had legal representation.

Mr Justice Didcott made this ruling on setting aside the conviction of two people for housebreaking. Both had been unrepresented.

In terms of his judgment, which is binding in Natal, the courts had to consider the complexity and seriousness of cases before them.

Mr Justice Didcott said his ruling did not apply to petty cases where those who could afford a lawyer would probably not engage one, or Supreme Court trials where pro Deo counsel was available.

Mr Currin said the LHR had been monitoring courts since the judgment made by Mr Justice Goldstone in the Transvaal last year which also dealt with an accused person's right to legal representation.

He added that the LHR had found many magistrates appeared to be unaware of Mr Justice Goldstone's judgment.

Cape Times 30/6/88

4 cars damaged

PRETORIA

Huge breakthrough for people who cannot afford attorneys

LAWYERS WELCOME COURT RULING

Sowetan 30/6/88 (252)

DURBAN'S Legal Resources Centre has welcomed a landmark judgment in the Maritzburg Supreme Court as a "huge breakthrough for people who cannot afford lawyers".

Last week the convictions and sentences of two men charged with housebreaking were quashed by Mr Justice Didcott because they had had no legal representation during their trial

Mr Justice Didcott said the magistrate had not told the men they were entitled to legal representation and had not offered them the opportunity to obtain it

The judgment is binding on Natal courts and "persuasive" in other provinces

Mr Chris Nicholson, director of the Legal

SOWETAN Correspondent

Resources Centre, said this week that the judgment would assist the poor Until now, the law was available only to those who could afford it

"If you don't have a lawyer acting for you, you are deprived of justice," he said

"People are going to have to get legal aid and it is up to the Government to provide funds to make the law available to those who cannot afford it"

Mr Jules Browde, chairman of Lawyers for Human Rights said if the judgment were followed it would lead to an important improvement in the administration of justice in South Africa

The two men in the case, Mr P Khanyile and Mr M Mkwanyana, were convicted in a magistrate's court in Natal for housebreaking on the sole evidence of fingerprints The case was sent to Mr Justice Didcott on automatic review

Witness tells PW: I lied in 'Six' trial

CAPE TIMES 7/7/88 (252)

JOHANNESBURG — A key witness at the trial of the Sharpeville Six, sentenced to hang for their part in a mob killing, has written to President P W Botha and told him he lied in court, the man's lawyers said yesterday

Mr Joseph Motsumi Manete repeated earlier statements in his handwritten letter that he gave false testimony at the trial of the five men and one woman because of police threats and torture

He sent a similar letter to Mr Chief Justice P J Rabie

"I would like to tell you . that what I have told the court was not my words, because the police had written my statements on my behalf and without my presence," his letter to Mr Botha said

He went on to say police tortured him and threatened to kill him unless he co-operated in implicating two of the accused

All six were convicted of sharing "a common purpose" in the 1984 mob killing of township councillor Mr Kuzwayo Dlamini Mr Manete's evidence was crucial in obtaining two convictions

Defence lawyers sought a retrial on the grounds that Mr Manete had perjured himself at the trial, but last month the Pretoria Supreme Court rejected the application but extended a stay of execution until July 19 The court said the fate of the six rested with Mr Botha

According to Mr Manete's lawyer Mr Mohamed Bam, his client "did not see any of the six persons at the scene of the killing He has suffered since the case started four years ago, and he has now decided to tell the truth"

The six are Reginald Sefatsa, 32, Theresa Ramashamola, 26, Francis Mokgesi 30, Reid Mokoena, 24, Oupa Diniso, 30 and Duma Khumalo, 28. — Sapa-Reuter-UPI

DEAR MR PRESIDENT

Although it's the month of July, the horse pictured here is not a July Handicap runner. What's more, Latoy Maene isn't even studying a July form-guide. But July fever has yet again gripped the country and Latoy hopes, like the rest of us, to somehow pick the winner of tomorrow's July at Greyville.

Vaal Six witness writes to PW

KEY Sharpeville Six witness Joseph Motsumi Manete has made a passionate plea to State President PW Botha to "please save The Six"

By CHARLES MOGALE

He dispatched two emotionally charged letters this week to the country's two top officials – to Mr Botha's office and that of the Chief Justice, PJ Rabie, in his effort to be "given a hearing"

In the letters, Manete, the 24-year-old State witness-turned campaigner for saving The Six", told Botha and the Chief Justice of alleged police torture on key witnesses in the Sharpeville Six trial and said he had been forced to sign a statement he did not write

The Sharpeville Six who have been on death row since being sentenced on December 13 1985, are Theresa Ramashamola Mojalefa Sefatsa Malebo Mokoena Opua Diniso Duma Khumalo and Franscis Mokhesi

They were convicted of killing the Lekoa Town Council deputy mayor Jacob Dlamini on September 3 1984 – the day when the Vaal Triangle townships exploded, triggering a massive rent boycott

Botha had previously refused the Six clemency ignoring local and international appeals to spare their lives

Then State witness Manete came into the picture just days before the Sharpeville Six were due to hang in March this year

The Six beat the gallows by hours when their lawyer Prakesh Diar, presented trial judge WJ Human with an affidavit made by Manete to his lawyer Mohamed Bam, contradicting his evidence in the trial In the same affidavit, Manete alleged he had been tortured by the police

On this information, their lawyer sought a reopening of the trial but the application was dismissed on June 13 by Judge Human who said it was 'frivolous" and "absurd' and would be tantamount to an abuse of the court process

He also refused leave to appeal against his decision. The Judge then stayed the execution of the Six until July 19

As time is running out, Manete has now come back to the forefront to plead directly to the State President

In his letter this week he wrote

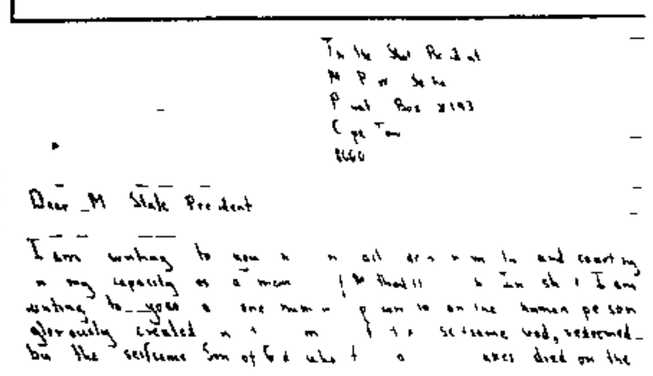
Dear Mr State President,

I am writing to you Sir in all deep humility and courtesy in my capacity as a member of the Methodist Church

In short, I am writing to you as one human person to another human person gloriously created in the image of the selfsame God redeemed by the selfsame Son of God who for all our sakes died on the cross and

With most of the country in the grip of icy weather, these Soweto kids huddled around an open fire to warm up

Pic THEMBA NKOSI



Death penalty must go – SACC

By REVELATION NTOULA

GENERAL Secretary of the SACC Rev Frank Chikane this week urged the ecumenical body to campaign for the abolition of the death sentence in South Africa

He pointed out that in 1987 164 people – mostly blacks – were hanged At the end of the same year beginning of this year is the alarming increase in the number of executions in South Africa said the clergyman

He pointed out that in 1987 164 people – mostly blacks – were hanged At the end of the same year churches ought to be concerned about the death penalty because of the sanctity of life

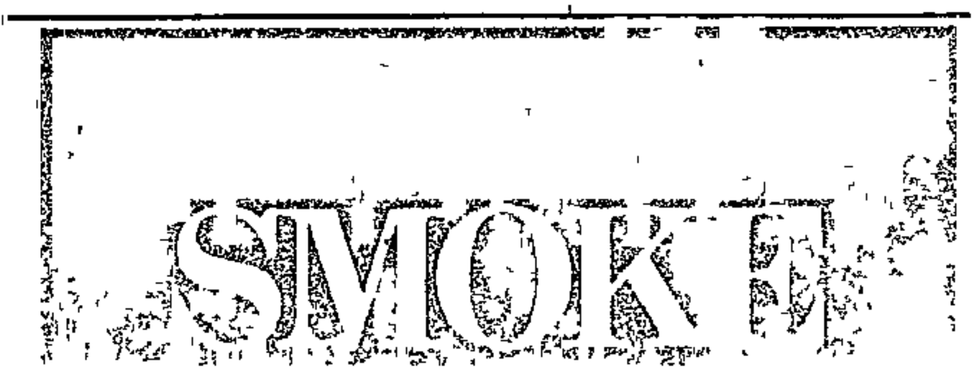
Another reason was the possibility of error in the court's findings which led to the imposition of the d[illegible]

punishable by death"

Chikane said it had also been proven that the death sentence did not have a deterrent effect

The number of murders have increased over the years he said

"The execution of 'po-



ness turned campaigner for saving "The Six", told Botha and the Chief Justice of alleged police torture on key witnesses in the Sharpeville Six trial and said he had been forced to sign a statement he did not write

The Sharpeville Six, who have been on death row since being sentenced on December 13, 1985, are Theresa Ramashamola, Mojalefa Sefatsa, Malebo Mokoena, Opua Diniso, Duma Khumalo and Francis Mokhesi

They were convicted of killing the Lekoa Town Council deputy mayor, Jacob Dlamini, on September 3, 1984 – the day when the Vaal Triangle townships exploded, triggering a massive rent boycott

Botha had previously refused the Six clemency, ignoring local and international appeals to spare

ed trial judge WJ Human with an affidavit made by Manete to his lawyer, Mohamed Bam, contradicting his evidence in the trial In the same affidavit, Manete alleged he had been tortured by the police

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In his letter this week, he wrote

Dear Mr State President,

I am writing to you, Sir, in all deep humility and courtesy in my capacity as a member of the Methodist Church

In short, I am writing to you as one human person to another human person gloriously created in the image of the selfsame God, redeemed by the selfsame Son of God who for all our sakes died on the cross and rose triumphant from the dead and reigns in glory now at the right hand of the Father, sanctified by the selfsame Holy Spirit who works inwardly in all of us to change our hearts of stone into hearts of flesh

I am writing this letter in order to tell you the TRUTH about the death of the late Mr Dlamini and the already condemned "Sharpeville Six", but I cannot do this without telling my deepest feelings about what had happened to the Dlamini family

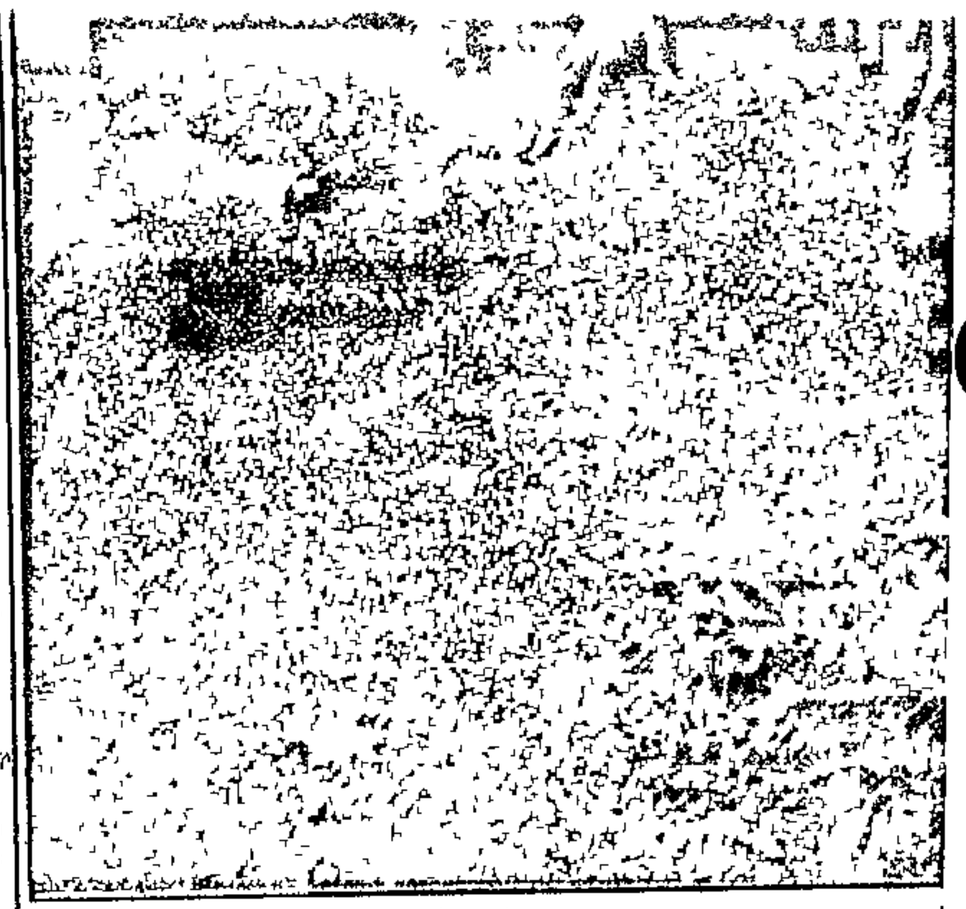
I feel very sorry about the tragic event that robbed Mr Dlamini's life and made his children to be fatherless, no more to be embraced and hugged by their beloved father, a father who has experienced the joys and anguish of family life, its laughter and gaiety, its sorrows and pangs

I wish God could protect them for the rest of their lives I had been praying nightly, asking the Almighty not to forget them, the dispossessed, forgotten fatherless children

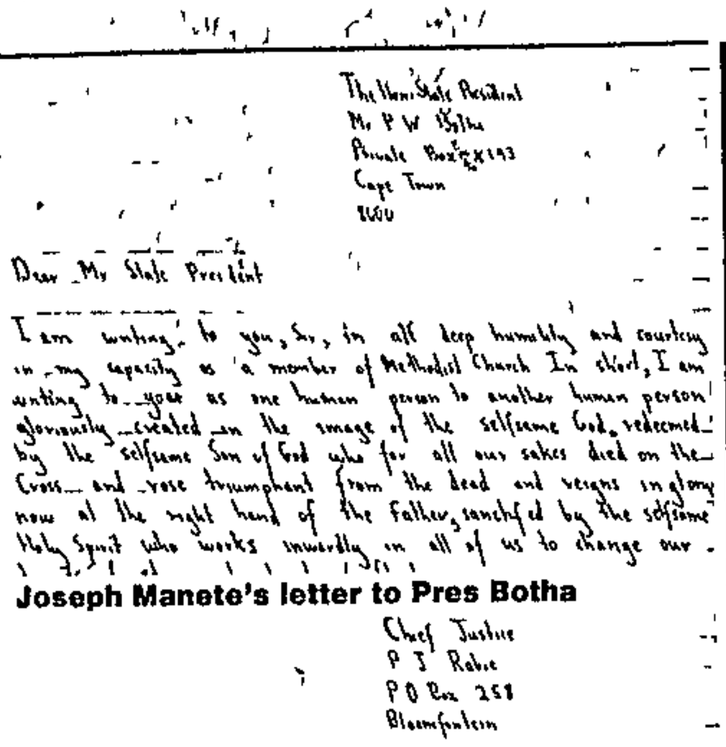
May God Bless Them, Guard His Children, Give Them Peace – for Jesus Christ's sake

I write to you, Sir, to give you all the facts and figures about the "Condemned Sharpeville Six" I think it is much better that you should hear the news from "We" – the police-pressured State witnesses I say "We" because every each of the State witnesses was not happy about their statements that they had made to the Security Police at Krugersdorp Police Station, where we were interrogated

To Page 2



With most of the country in the grip of icy weather, these So



The Hon State President
Mr P W Botha
Private Bag X193
Cape Town
8000

Dear Mr State President

I am writing to you, Sir, in all deep humility and courtesy in my capacity as a member of Methodist Church In short, I am writing to you as one human person to another human person gloriously created in the image of the selfsame God, redeemed by the selfsame Son of God who for all our sakes died on the Cross and rose triumphant from the dead and reigns in glory now at the right hand of the Father, sanctified by the selfsame Holy Spirit who works inwardly in all of us to change our

Joseph Manete's letter to Pres Botha

Chief Justice
P J Rabie
P O Box 251
Bloemfontein

Dear Chief Justice

My Lord, I am writing to you this letter in order to know the the truth about the death of Mr Dlamini and the "Innocent Sharpeville Six".

My Lord, I believe the truth should be known as I believe it will set me free, free from the nightmares that had been haunting me from the last passed four years I was not influenced by anyone to write this letter to you, but the spirit of God, spirit of Justice, forced me to write this letter to you, My Lord

And his plea to the Chief Justice

Execution of the Six could bring sanctions

EUROPEAN Community leaders urged South Africa this week to spare the lives of the Sharpeville Six and said a threat was hanging over the EC's relations with Pretoria

'The European Council urged that all legal options available in South Africa including, if necessary the grant of clemency by President Botha, should be used to prevent the death penalty from being carried out against the Sharpeville Six," the statement said

Several of the 12 EC countries wanted the statement to include a threat of sanctions if the Six were executed

But during informal talks among the foreign ministers, Britain opposed such a threat, saying no action should be taken until all legal appeals had been exhausted, diplomats said

Both France and the Netherlands said it was too weak As a result, a new sentence was included at the start, saying

"The European Council (summit) noted with great concern that relations betweeen the 12 and South Africa run the risk of being worsened even further"

French officials said Paris would impose sanctions against Pretoria if the executions were carried out

The Sharpeville Six, five men and a woman, were convicted of murder in the September 3, 1984, mob killing of Lekoa township deputy mayor Jacob Dlamini

They were convicted of murder under the doctrine of "common purpose", which holds they were responsible for the killing by being part of the crowd that killed Dlamini – Sapa

– SACC

punishable by death"

Chikane said it had also been proven that the death sentence did not have a deterrent effect

"The number of murders have increased over the years," he said

'The execution of 'political offenders' in South Africa has motivated more young people to join the armed struggle," Chikane said He cited the much-publicised Messina trial as a case in hand

A claim
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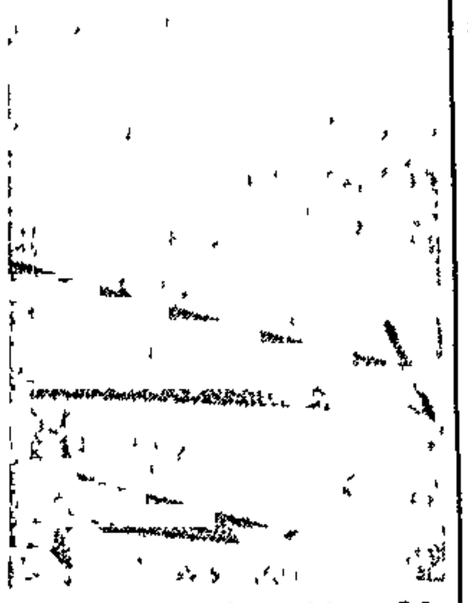

plane used in the raid on SA

peace for the sub continent, it could not allow the export of terrorism from Angola to SWA/Namibia and South Africa

He described the Cubans as a destructive force living off the Angolan people

Referring to further peace talks, Malan said South Africa would now have to convert challenges into opportunities and that it would have to do its utmost at the negotiating table – Sapa

P.T.O.

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'I was afraid I will reach the point of no return – death'

From Page 1

3/7/86 (252) City Press

I, myself, was taken into the office, whose windows faced the direction of Krugersdorp Prison I think this was done purposefully, because during the interrogation when I became not co-operative, they said to me that they will send me to that prison

I was interrogated during the presence of Krugersdorp Warrant Officer, Mr Schoeman.

They asked me the names of the people who killed Mr Dlamini I told them that I don't know their names They threatened and pressurised me

One of the white policemen pushed my head against the wall and I was clapped several times on the face I started to cry immediately They said to me that they are taking me to the prison This was not done, because on the way they returned with me back to the same office, where I was threatened by the police again

They asked me again about the names of the accused and I told them that I don't know their names I was clapped again and I was told that now they are going to kill me because I am not co-operative and also I was at the scene of crime when Mr Dlamini was killed by the mob

Mr Schoeman then took out some papers which were in the steel shelves He said to me that I should listen attentively He reads the names of the accused to me and he asked me which of the accused were present when Mr Dlamini was killed I refused to do this again

The police said to me that I will stay in prison for a long time and I will be tortured daily, if I did not mention the names of Duma Khumalo and Don Mokgesi I agreed with them that they were at the scene of crime when Mr Dlamini was killed I was then left alone in the office

Later the police came back with written documents They told me to sign my name on these documents and this was done

They read these documents to me and I realised that the police had written the statement on my behalf During the interrogation I was afraid that very soon I will reach the point of no return – that is death Torture and police pressure forced me not to tell the court "My Truth"

I am writing to you, Sir, as I think my word should be taken into consideration. Johannes Mongaula, who was one of the State witnesses, was also beaten and forced to mention my name I would like to tell you, My Dear President, that what I have told the court was not my words, because the police had written my statements on my behalf and without my presence

My President, during the trial I told the police that I am not happy about my statement, but I was told that if I don't tell the court what is written in my docket, the court will judge me with perjury My President, when I wrote this blessed letter to you, tears started to come out of my eyes

Dear President, I wish I could be taken to you, to discuss this "heavy burden" verbally After I had written this letter, I kneeled down and prayed

Yours Faithfully

Joseph Motsumi Manete

Death penalty must go – SACC

By REVELATION NTOULA

GENERAL Secretary of the SACC, Rev Frank Chikane, this week urged the ecumenical body to campaign for the abolition of the death sentence in South Africa

Chikane made the appeal during his report at the council's annual national conference in Bosmont, Johannesburg.

Of concern since the beginning of this year, is the alarming increase in the number of executions in South Africa," said the clergyman

He pointed out that in 1987, 164 people – mostly blacks – were hanged. At the end of the same year, 268 people were awaiting execution

Of those on Death Row, he said, 53 had been found guilty of politically motivated offences

Chikane said the churches ought to be concerned about the death penalty, because of the "sanctity of life"

Another reason was the possibility of error in the court's findings which led to the imposition of the death penalty.

The death sentence was not an appropriate punishment "because society is, in the main, responsible for conditions which make people guilty of offences punishable by death"

Chikane said it had also been proven that the death sentence did not have a deterrent effect

"The number of murders have increased over the years," he said

"The execution of 'political offenders' in South Africa has motivated more young people to join the armed struggle," Chikane said He cited the much-publicised Messina trial as a case in hand

Angolans ridicule SA claim on Cuban troop casualties

THE official Angolan news agency, Angop, has said 26 white South African soldiers died in Monday's battle near the Caluque Dam and ridiculed the South African claim that 12 South African and more than 300 Cuban and Angolan troops had been killed

"Twenty-six white South Africans died on Monday in clashes with Angolan government troops," Angop said in a brief dispatch monitored in Lisbon

"The (Angolan and Cuban) casualty figure is an exaggeration," the agency said quoting military sources

The SADF announced that "more than 300 Cubans and Angolans were killed in the clash".

Only eight Angolan soldiers were killed in the fighting, according to Angop, which made no mention of Cubans

"The South African troops around Calueque are becoming a main base for the SA army in its aggressive actions against Angola," it said.

South African artillery and aircraft bombarded the region last weekend, it added

An SADF spokesman said from Pretoria that the Defence Force issued a "factual statement" earlier in the week and an updated statement on Wednesday

"The facts speak for themselves and are at least open to public scrutiny

"It will serve no purpose to react to this sort of propaganda," the spokesman said

Meanwhile, the Minister of Defence, Gen Magnus Malan, said if the Defence Force did not act when provoked as was the case this week in the air raid on Calueque in south-western Angola, loss of life would be much higher at a later stage

Malan said in an interview that South Africa was the ultimate goal of the Cuban onslaught

He said although South Africa was striving for peace for the sub-continent, it could not allow the export of terrorism from Angola to SWA/Namibia and South Africa

He desribed the Cubans as a destructive force living off the Angolan people

Referring to further peace talks, Malan said South Africa would now have to convert challenges into opportunities and that it would have to do its utmost at the negotiating table – Sapa

The Russian-built MiG-23, similar to the plane used in the raid on SA bases in Angola this week.

Our July Handicap tips – Page 19

3/7/88 C/Press

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To Page

Yes, there are good reasons to reprieve the Sharpeville Six

By KEN OWEN

Cape Times 4/7/88

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THE Lawyers for Human Rights (LHR) have accused me through their national chairman, Jules Browde, of making mischief by raising in public the political questions that impinge on the decision whether or not to reprieve the Sharpeville Six That accusation, implying bad faith, must be answered

Let me confess that doubts about good faith exist on all sides of this argument I am deeply suspicious that the campaign on behalf of the Sharpeville Six was launched from abroad in an attempt to legitimate mob killings of petty officials in order to make this country "ungovernable" It dovetails with a campaign to undermine the legitimacy of all institutions of government, including the courts, also intended to make the place ungovernable

The same suspicion, I am sure, inhabits the mind of the man who must grant clemency, and unless it can be erased the chances of reprieve are small

It is lamentable that the LHR tries to brush the question under the carpet, or to smuggle it past the State President and his political constituency as though they were stupid Perhaps it is unavoidable that the law should be an ass, lawyers should not be.

Out of legal realm

Browde's accusation of mischievousness rested on three points many lawyers believe an individual's blameworthiness is reduced when he acts in common purpose with a mob to kill somebody, and this "extenuating circumstance" makes the death sentence not obligatory My "insinuations" that the mob acted in execution of a political strategy generally used by communists are "uncalled for", and in the present circumstances in this country, are mischievous

Of his main argument on extenuation, I can only say it was lost in the courts, and I retain sufficient respect for our courts to accept the judgment as being no more fallible than any other Officers of the court who have lost faith in the courts of this country as institutions for justice have, I believe, an absolute obligation to withdraw instantly from legal practice

Since none of the LHR lawyers has, so far as I know, quit the profession, I am entitled to assume that they accept the court's judgment as final The debate now moves out of the legal realm, and into the political

Lawyers are free to pursue in other arenas the arguments they have lost in court The law journals are filled with such post mortems However, they cannot have it both ways If they take the argument into the political arena, as the LHR has done with the Sharpeville Six case, they must accept that the monastic rules of the courtroom do not apply to political campaigns The argument cannot be confined by the conventions of law

President Botha, in particular *must* consider the political context in which the Sharpeville Six acted It is his duty to do so In addition to his duty to consider the welfare of society at large, he has a special duty to consider the interests of the petty officials he has appointed who are threatened with assassination by fire

To try to suggest, as Browde does, that the wider political questions must be kept out of the debate is at best unrealistic and at worst intellectual sleight of hand

This is not the place to explore the classical and unanswerable conundrums of crime and punishment which the Sharpville Six case raises The argument would be easier to handle if South Africa did not impose the death sentence, but instead sentenced people to such (equally inhuman) terms of imprisonment as "life plus 99 years", however, the problems are the same

If the theory that punishment deters has any validity, then one must assume that the most severe sentence (in this case, death) is intended, at least in part, to serve as a deterrent warning to others

The British courts have, I believe, imposed especially severe sentences for racist crime in order "to send a message" to the society at large that racism will not be tolerated If memory serves, Lord Denning has accompanied such sentences with glorious, moralistic lectures to society at large

Similarly, refusal to impose the most severe sentence also sends a message Browde's argument concerning extenuation in cases of mobs acting in common purpose would, if it prevailed, send the most appalling message

Ensure reprieve

It would say that adult political cadres can expect, provided they observe certain precautions, to escape society's severest punishment if, in obedience to instructions broadcast from Lusaka by the ANC, they assassinate black petty officials

To escape the gallows, they must gather up a mob so that responsibility is dispersed, they may prepare petrol bombs, but must hand them to others to throw, they must create an atmosphere of hysteria and excitement by setting fire to cars and houses, they must stone their victim so that nobody can say with certainty who struck the fatal blow, and they must set him on fire to make the cause of death uncertain

Moreover, they can expect the foreign embassies, the international media, foreign pressure groups and local laywers to join forces to ensure their reprieve, and they can confidently hope to live long enough to be released from prison by the revolution — the more so, because the campaign on their behalf will undermine the confidence and legitimacy of the regime they oppose

Let me be blunt if Browde's argument is the only one available, the Sharpeville Six have less hope of reprieve than I had thought It did not work in the courts, and it won't work in the political arena Those who put their faith in that argument — however much they may know about law — know little of human political behaviour and less about this country, and are a menace to the cause of pity

There are, fortunately, more valid arguments for clemency The first is cynical — that a government under revolutionary pressure should not create martyrs The second is that the death sentence brutalizes the society which imposes it, and this blood-bespattered continent deserves occasional models of civilized magnanimity

The third is that, on the facts as found by the court, not all six were equally culpable, and that the less culpable deserve — as a matter of plain common sense — lesser sentences The fourth is that President Botha, as a Christian whose faith I do not doubt, owes it to himself to show mercy

I think, since I know my country and the people who govern it, and since my opinions are not shaped solely at the childless dinner tables of Johannesburg's emigrant suburbs, that my arguments may save the lives of at least some of the Sharpeville Six

Browde's argument, especially as it is put forward at a time of international campaigns to destroy the legitimacy of President Botha's republic, is calculated to get them all hanged Fortunately, one can hope that he will be ignored

Lawyers lodge final appeal today for Six

Cape Times 4/7/88 (252)

JOHANNESBURG. — Defence lawyers for the Sharpeville Six yesterday said they would lodge a final judicial appeal today to save their clients from the gallows

The appeal, coinciding with renewed international pressure on the government to abandon plans to execute the five men and one woman known as the Sharpeville Six, is the last judicial avenue open to the defence before appealing to President P W Botha for clemency

Mr Prakash Diar, the leader of the defence team, said the appeal would be filed with Supreme Court Chief Justice P J Rabie today to overturn a June 13 decision by Pretoria Supreme Court judge Mr Justice Paul W J Human, who refused to reopen the trial.

"I hope he acts as soon as possible," Mr Diar said "My clients have been on death row since December 13, 1985. The longer this case is prolonged, the more difficult it becomes for them."

Mr Justice Human, who convicted the six on December 13, 1985, granted a stay of execution on March 17, some 15 hours before the six were to be hanged at Pretoria Central Prison, on the basis of new evidence by the defence that star prosecution witness Mr Joseph Mosumi Manete may have given perjured testimony — UPI

THE SIX PETITION CHIEF JUSTICE

SUSAN RUSSELL

THE Sharpeville Six lodged a petition with the Chief Justice in Bloemfontein yesterday seeking leave to appeal against the dismissal of their Supreme Court application for their trial to be re-opened.

The application for the re-opening was refused by Mr Acting Justice Human in Pretoria last month.

Mojalefa Reginald Sefatsa, 32, Reid Malebo Mokoena, 24, Oupa Moses Diniso, 32, Theresa Ramashamola, 27, Duma Joshua Khumalo, 28, and Francis Don Mokgesi, 31, were all sentenced to death for the murder of Lekoa deputy mayor Khuzwayo Jacob Dlamini in September 1984.

The Six were granted an 11th-hour stay of execution on March 17 this year so they could apply for the re-opening of their case.

After refusing the application last month, Mr Justice Human extended the stay of execution until July 19 so the group could petition the Chief Justice

A legal representative for the Six said they might have to seek another stay of execution pending the outcome of the petition to the Chief Justice.

If the Chief Justice found no merit in the application, the next step was to petition the President

'Six' petition on appeal right

Cape Times 5/7/88

BLOEMFONTEIN — The petition by the Sharpeville Six for leave to appeal against the dismissal of their application to reopen their trial was lodged yesterday with the Appeal Court here

Mojalefa Reginald Sefatsa, Reid Malebo Mokoena, Oupa Moses Diniso, Theresa Ramashamola, Duma Joshua Khumalo and Francis Don Mokgesi lost their appeals in December against the death sentences they had received for the murder of the deputy mayor of Lekoa, Mr Kuzwayo Jacob Dlamini

Mr Dlamini was stoned and burnt to death outside his house — Sapa

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NO "COMMON PURPOSE" WITH HANGING

We, members of the undersigned solidarity group in the Federal Republic of Germany, express our dismay at the refusal to show clemency for the SHARPEVILLE SIX.

Their planned execution for apparently having "common purpose" with unknown murderers shows a lack of humanity and has aborted the remnants of justice in SA.

During the rule of the Nazis we Germans experienced a tacit "common purpose" between a rascist and totalitarian regime and the administration of justice to suffocate any expression of political opposition.

Therefore, as Germans with that historical background we declare:

We will not keep silent!

We will continue to work towards the imposition of mandatory sanctions!

We will intensify our solidarity with all those who are struggling to create a just and democratic South Africa for all!

STOP THE HANGINGS NOW!

South Africa Scholarship Fund Tuebingen

Cape Times 7/7/88 252

British won't act now on Six

Own Correspondent

LONDON — British Labour MPs have again pressed the British government to ask President P W Botha for clemency for the Sharpeville Six

And once again the British government has refused to take any further action until all possible legal moves have been made.

Foreign Secretary Sir Geoffrey Howe told the House of Commons during question time yesterday that he had been in touch with the British ambassador in South Africa. "We are seeking, in the way we think the most effective, to secure the result that the whole House wants," he said.

Death statistics

WEEKLY MAIL REPORTER

THE Department of Justice has clarified discrepancies in reports of official death penalty statistics.

According to the department's liaison division, misinterpretations arose as "because of the remedies available to people sentenced to death they are not always executed in the same year that they are sentenced".

The correct information, according to figures recently supplied by Justice Minister Kobie Coetsee, is that:

A total of 79 people who were sentenced to death in 1987 have already been executed. Of those sentenced to death in 1986, 138 have gone to the gallows, while 129 of those condemned to die in 1985 have been hanged.

The department said the total number of executions in 1987 was 164; 121 people were hanged in 1986; 137 in 1985; 115 in 1984 and 90 in 1983.

8/14/88

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W/Mail

Another 'Six' application likely

JOSEPH MANETE, who gave state evidence in the Sharpeville Six trial, has written to President PW Botha to say "what I told the court was not my words, because the police had written my statements".

And in another new bid to save the six from the gallows, lawyers this week petitioned the chief justice for leave to appeal against the Pretoria Supreme Court's refusal to re-open the trial or hear new evidence.

The five men and one woman — condemned to death for having "common purpose" with the crowd which killed Sharpeville Councillor Khuzwayo Dlamini on September 3, 1984 — have been granted a stay of execution till July 19. Their attorney, Prakash Diar, said it was likely he would have to apply for a further stay of execution next week as even if the chief justice did grant a retrial, the executions were suspended only to July 19. If the chief justice turned down the application, the six would petition the state president to reopen the trial.

Diar said he believed the six "are in with a fighting chance. As long as my clients are alive there is hope."

But the contents of Manete's letter to Botha were, in fact, canvassed during last month's unsuccessful application for a re-opening of the trial.

Acting Justice WJ Human — the judge who heard the original trial — pointed out he had not dealt uncritically with Manete's evidence, which implicated two of the six, Duma Khumalo and Francis Mokhesi. The judge said he had accepted it only where it corroborated the testimony of another state witness. Thus even if Manete had lied it would not affect the verdict he reached.

Justice Human dismissed an application for him to hear oral evidence from Manete and another state witness who claimed to have been assaulted by police as "frivolous and absurd" and an "abuse of the process of the court".

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W Mail

Defence team go to Chief Justice with petition for reprieve of Six

CP Correspondent

AS the fate of the Sharpeville Six hangs in the balance with only 11 days to go before they are hanged, lawyers representing them are working ferverishly to secure their reprieve

In their concerted attempts to save the Six from the gallows, the defence team on Monday filed a lengthy petition with the Chief Justice.

They have also vowed to take the matter up with the State President – should their efforts to secure a re-trial fail

The Six were sentenced to death for the murder of the deputy mayor of the Vaal township of Lekoa, Jacob Dlamini, during the Vaal unrest in September 1984

In a surprise move following the sentence, the defence team applied to the Pretoria Supreme Court to have the case reopened This was on the ground that a State witness, Joseph Manete, had allegedly perjured himself during the trial.

However, the application for a re-trial on June 13 was dismissed by Acting Judge WJ Human He said that it was not within his jurisdiction to issue a rule founded on Manete's alleged perjury

Undeterred, lawyers on Monday petitioned the Chief Justice in another bid to have the trial reopened.

The move comes just two weeks before the Six are to hang and in the wake of international clamour that their lives be spared

Lawyer for Six, Prakash Diar, confirmed that a 500-page document was filed with Acting Judge PJ Rabie on Monday.

"We now have to await a reply on whether or not the Chief Justice will grant us leave to appeal

"There are not time limits for that – he could take a number of days or weeks," Diar said.

"Normally," he added, "it takes a long time, but in this particular case he might consider the matter as one of urgency"

Diar indicated, however, that should the defence team not have an answer from the Chief Justice by July 19, when the Six are to be executed, this would mean the defence team will again be going back to court.

On the other hand, should leave to appeal be granted, the defence team will have to go to the Appeal Court in Bloemfontein – again to present the same arguments that were made in the Pretoria Supreme Court

"If the Chief Justice refuses to grant us leave to appeal, we will petition the State President," Diar said.

However, Botha has in the past rejected appeals by the Six for a reprieve.

The Six on death row are. Mojalefa Sefatsa, 32, Malebo Mokoena, 24, Oupa Diniso, 32, Theresa Ramashamola, 26, Duma Khumalo, 28, and Francis Mokhesi, 30

On March 14, they were saved from the hangman's noose when the defence team lodged an affidavit by Manete at the eleventh hour with Acting Judge Human in which the former said that he had lied in his evidence during the trial which ended in a conviction of murder for the Six – Ano

Cape Times 19/7/89

C/Press 10/7/88

Activists get search order for security police offices

(252)

CP Correspondent

TWO activists in the Border region have succesfully been granted what is known as an Anton Piller application, in the Ciskei Supreme Court that the security police offices in Zwelitsha be searched to examine any apparatus pointed out by them

Judge Heath this week granted the application heard in camera, where trade unionist Tando Dyantyi and Border Council of Churches field worker, Boyce Soci, asked for permission to have access to the security police offices

Both are former security detainees under the Ciskei National Security Act

The two alleged that during their spell in detention they were assaulted and tortured by the security police

The court order granted permission to Dumisani Tabata and John Smith, the applicants attorneys and the deputy sheriff, together with Dyantyi and Soci to inspect the offices looking for objects used in torturing the two

Some of the objects used for torturing Dyantyi were found and the security police were given instructions not to dispose of them, as they would be required to be produced in court as evidence in civil claims

In his affidavit Dyantyi said he was blindfolded and placed in what he believed to be a chair, his hands and arms were fastened to the armrests and he was electrocuted

He alleged that he was castigated for making too much noise and a piece of cloth was placed in his mouth He said the torture was extremely painful and he lost consciousness

The applicants said as a result of the events, he instructed his lawyers to institute a civil claim for damages against the Ciskei Minister of Justice and policemen concerned.

"In view of the nature of such conduct and likelihood that the perpetrators will do everything possible to conceal the truth I submit that it is essential that I be given an opportunity to attempt to secure evidence which would support my allegations and in the circumstances, if possible to do so, I wish to secure as evidence, equipment which was used in commission of the acts," Dyantyi said

He said policemen responsible for torturing him had displayed such contempt for human life and law that they were likely to obstruct any investigation He applied that the application be heard in camera.

Soci filed a supporting affidavit detailing similar allegations of assault and torture by the security police He went further to name the security police involved.

Soci submitted that in the interest of justice, the order should be granted to enable them to prove their allegations

Meanwhile, a King William's Town Regional Court this week ruled that a statement made by an alleged ANC guerrilla is admissible as evidence against him

This ruling was made in a terrorism trial where Mxolisi Sokopo, 25, in a trial-within-a-trial, denied that he made it freely and voluntarily

Sokopo told the court the security police promised him he would not be charged and as a result, he made the statement. Amongst admissions he made, was pointing out arms in Vryheid

His trial has been going on since April, with the State leading evidence regarding the circumstances under which the alleged

The State alleges that Sokopo was involved in ANC activities, its membership and futhering its aims and objectives and that he underwent military training in Angola, and East Germany.

He is further charged with being in possession of weapons and banned publications and also faces fraud-related charges

Sokopo pleaded not guilty to all counts

The trial continues at the end of July – Elnews

Village in East London on 22/12/86

Execution of Six postponed indefinitely

(252) B/day 13/7/88

● From Page 1

result their execution has been suspended, the Minister's statement said.

It said the Transvaal Provincial Division of the Supreme Court of SA had ordered the execution of the six prisoners in the case of the State versus Mojalefa Reginald Sefatsa and others be postponed to July 19

"The approach of the court was clearly to ensure that the prisoners be afforded the opportunity of exhausting the remedies which the law offers, including any appeal which they may have wished to direct to the Appellate Division," it said

Since no sentence can be carried out before the legal processes have been completed, the date July 19 1988 was therefore no longer of any significance, it said.

● See Page 3

Indefinite stay of execution for Six

Business Day Reporter

THE execution of the Sharpeville Six has been postponed indefinitely to afford the prisoners the "opportunity of availing themselves of any further legal remedies that may be at their disposal", Justice Minister H J Coetsee said yesterday.

The Six were given until July 19 to lodge an appeal. They have now filed a petition with the registrar of the Appellate Division for leave to appeal and as a

(252) B/day

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13/7/88

Thatcher pledges help on Six

(252) B/day 13/7/88

LONDON — British Prime Minister Margaret Thatcher has pledged to make a personal appeal to President P W Botha to save the Sharpeville Six once all legal moves have been exhausted, Britain's Independent Television News reported.

ITN said Thatcher made the promise to Joyce Mokgesi, sister of one of the Six due to hang for the murder of a local government official. Mokgesi described Thatcher as "concerned and caring".

ITN said Britain believed the death sentences against the Six were inappropriate — Sapa

Six get stay

Minister orders a delay of execution for the Sharpeville Six

Star 13/7/88

JOHANNESBURG. — The Minister of Justice, Mr Kobie Coetsee, yesterday formally ordered a stay of execution of the condemned Sharpeville Six while appeal judges consider a last-chance defence plea to reopen the 1985 trial.

In a statement, Mr Coetsee said the five men and a woman must "be afforded the opportunity of exhausting the remedies which the law offers" The six were given until July 19 to lodge an appeal

Amid pleas for clemency and Western threats of diplomatic retaliation if the six are executed, Mr Coetsee also urged against "arousing feelings for or against the prisoners"

The spokesman for the defence team, attorney Mr Prakash Diar, yesterday said judges at the Appeal Court, the nation's court of last resort, had not yet ruled on the petition to reopen the case

Clemency

If the appeal is denied, Mr Diar said, the defence would ask President P W Botha for clemency

Mr Coetsee said "The prisoners have now filed a petition with the (Appeal Court) for leave to appeal

"Consequently their execution has been suspended to afford them the opportunity to pursue the remedy of a possible appeal as well as all other legal remedies at their disposal"

The minister's statement said the Transvaal Provincial Division of the Supreme Court had ordered that the execution of the six prisoners be postponed to July 19

However, Mr Coetsee said, "Since no sentence can be executed prior to the legal processes having been completed, the date of July 19 is therefore no longer of any significance"

Mr Diar said Mr Coetsee "acted reasonably" in staying the executions indefinitely

"We believe there is sufficient legal ground for these people not to hang"

In a trial judgment later upheld by the Appeal Court, Mr Justice Human convicted the six in December 1985 on the "common cause" principle of taking part in the mob killing and burning of councillor Mr Khuzwayo Jacob Dlamini although no evidence proved any one caused his death

Mr Justice Human on March 17 stayed the executions 15 hours before the six were scheduled to go the gallows, when Mr Diar and other defence lawyers challenged evidence by state witness Mr Joseph Manete who said he was a "police-pressured state witness"

Meanwhile, the sister of one of the six said in London yesterday that a 40-minute talk with the British Prime Minister, Mrs Margaret Thatcher, had given her hope

Miss Joyce Mokhesi declined to discuss the meeting in detail

In parliament yesterday Mrs Thatcher said she was prepared to renew an appeal to President Botha for clemency. Should a death sentence be confirmed, representations "will be made not only by me but by the Toronto summit seven and the (European) Community 12", she said — Sapa-Reuter and UPI

Move to give all accused legal representation

Star 13/7/88 (252)

By Tim Cohen

Lawyers for Human Rights has launched a national campaign to provide people accused in court with legal representation which they hope will ultimately result in an Office of the Public Defender

The campaign follows this month's landmark Natal Supreme Court judgment which laid down precise guidelines to ensure that, where necessary for a fair trial, an accused must be represented

In handing down the judgment, Mr Justice John Didcott said only a shortage of lawyers and a lack of legal aid funds prevented him requiring that no one should be tried without legal representation

Voluntary

To create a climate where this could become a reality, Lawyers for Human Rights has set out to involve 2 000 lawyers in a project which will provide representation for 20 accused on any one day

According to the national director of Lawyers for Human Rights, Mr Brian Currin, lawyers throughout the country will be asked to volunteer their services for an average of three days a year

Mr Currin said the project would service only the tip of an iceberg

He said that the organisation hoped it would engender what he called a "representation ethos" and would ultimately result in legal representation, at least in all criminal matters, becoming an absolute requirement

The organisation said it was also in favour of legislation requiring lawyers to set aside a certain number of days each year for *pro deo* cases

Mr Currin said an article of the Universal Declaration of Human Rights required legal representation as a right

In line with this requirement, the United States government had established a public defender programme, resulting in all its citizens having the right to legal representation by law, Mr Currin said

In a context where about 80 percent of criminal accused were not represented, South Africa should be working towards such a system, Mr Currin said

It has been estimated that 100 000 to 150 000 people go to jail every year following trials in which they were not represented

The Natal Supreme Court judgment extended a ruling of the Transvaal Supreme Court handed down by Mr Justice Goldstone, who said there could be a complete failure of justice unless the accused was informed of his right to legal representation and encouraged to exercise it

Mr Currin said that despite this judgment, handed down earlier this year, Lawyers of Human Rights was involved in cases where an accused's rights were not explained

"A duty exists on the Justice Department to inform magistrates of the position," Mr Currin said

Political

The State body concerned with legal representation, the Legal Aid Board, was to administer R12 million in the 1988/9 financial year, an increase of 33 percent

However, in spite of this increase, the funds were not sufficient and the board was disinclined to get involved in cases which concerned political matters, Mr Currin said

Sharpeville Six: UK welcomes decision

ARGUS 13/7/88

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The Argus Foreign Service

LONDON. — The decision to postpone indefinitely the execution of the Sharpeville Six has been widely welcomed in Britain.

It was a major item on television and radio broadcasts last night and is front-page news in several of today's newspapers

Both Whitehall and Downing Street, where Mrs Margaret Thatcher met Miss Joyce Mokhesi, sister of one of the Six, welcomed the decision.

In the House of Commons, Mrs Thatcher told MPs she was prepared to renew an appeal to President Botha for clemency on behalf of the Six.

She said "Representations have been made by me through the usual channels, the best channels, for clemency. Should the death sentences be upheld, they will be made again not only by me but reinforced by the Toronto summit seven and the European Community 12"

Commentator John Dickie, of the Daily Mail, says South Africa has "bowed to worldwide concern. The suspension of the executions had all the appearances of a face-saving device".

Minister of Justice Mr Kobie Coetsee said yesterday the execution of the Six had been suspended again to allow them to pursue a possible appeal.

In a statement, he said that in the case of the State versus Mojalefo Reginald Sefatsa and others, a petition had been filed with the Registrar of the Appellate Division for leave to appeal.

The execution of the six prisoners was postponed to July 19 by the Transvaal Supreme Court on June 13 this year to give them "the opportunity of availing themselves of any further legal remedies that may be at their disposal"

He said the court's approach was to ensure that the prisoners were afforded the opportunity of exhausting legal remedies, including any appeal.

"Since no sentence can be executed prior to the legal processes having been completed, the date of July 19 is therefore no longer of any significance

"All interested parties are requested to refrain from arousing feelings for or against the prisoners This can serve no purpose and may only tend to obstruct the course of justice," he said — The Argus Foreign Service and Sapa

252 B/Day

Sharpeville Six

14/7/88

THE decision to postpone indefinitely the execution of the Sharpeville Six was not so much sensible as unavoidable, but it does display a welcome degree of common sense.

It was a practical necessity to allow every judicial avenue to be exhausted to ensure the trial has been fair and the verdict correct. Since that may take time, it is impractical and inhuman to have a series of short postponements The decision is sensible because it allows a separation of two distinct issues the question of a just trial and the question of clemency. The latter arises only when the first has been achieved.

Announcement of the postponement has been accompanied by the usual malappropriate comment from abroad, including the assertion that government has bowed to external pressure, but that will not affect the legal processes which have been set in motion to review the verdict. It should not affect the question of clemency when, and if, it arises

In the end, the only answer to external pressure on the legal process of this country is to ensure that justice is done and that the outcome is meticulously explained to ensure that justice is seen to be done These objectives will be better achieved without artificial time constraints.

Cape Times 14/7/88 (252)

SA govt explains Sharpeville Six

Own Correspondent

LONDON. — South Africa's ambassador here, Mr Rae Killen, yesterday held a major press conference to put the government's case on the Sharpeville Six and the detention of children.

Mr Killen did not put the case himself, Professor Sas Strauss, a law professor of Unisa, fielded questions

Professor Strauss defended the judgment in the Sharpeville Six case, saying there was ample precedent for the application of the common purpose doctrine

He said it was possible the six could escape execution if new evidence were found to exonerate them

"I think what we might see is that the Chief Justice will call for full argument and that is unlikely to be completed within the next six weeks"

Professor Strauss speculated that it was likely that a final ruling on the six would be made only as late as October or November this year

He rejected any suggestion that the decision in the Sharpeville Six case had been influenced by government Nor, he said, had the decision by the Minister of Justice, Mr Kobie Coetsee, to grant an indefinite stay in execution been influenced by political considerations

Asked to comment on remarks by former British Lord Justice of Appeal Lord Scarman, that aspects of the case against the six were "dangerous and perverse", Professor Strauss said "It's questionable whether a Lord Justice should pronounce on the findings without having full access to the full trial record"

When a reporter interjected that Lord Scraman had read the full record, Professor Strauss said "I can't see how a judge who has not seen or heard witnesses can pronounce on their credibility"

Professor Strauss said he had not read the full trial record himself, but had accepted an invitation by the embassy to answer questions because he was satisfied, from studying the judgment, that all arguments had been heard.

Later the embassy screened a government-made film denying allegations of the torture of children and brutality on the part of police in a recent BBC documentary "Suffer the Children".

The government film contained extensive footage of children beating and jumping on necklace victims

'It is sapping my blood' — father

SHARPEVILLE. — Mr Basie Mokgesi, the ageing father of Francis Mokgesi, one of the Sharpeville Six, yesterday said he still hoped his son's life would be spared but admitted the affair "is sapping my blood".

"I'm getting tired of it," Mr Mokgesie, 75, told a visitor.

"What can I do?" he asked. "Let the white man do what the white man will do."

Mr Mokgesi's daughter Joyce is on a mission funded by Western European embassies, a church source said, to lobby for more international pressure on the government to reopen the case.

A former court translator, Mokgesi's father said he viewed President P W Botha as "fairer" than the prime ministers of the past and believed that "justice will be justice" in the case of his son.

Mrs Leah Mokoena, the mother of Reid Mokoena, the youngest of the Six at 24, yesterday openly wept in the tidy garden outside her home over the four-year incarceration of her son.

Mokoena was convicted on the basis of his confession, while in police custody, that he threw a rock at the back of Mr Khuzwayo Dlamini as he lay on the ground. The court rejected defence arguments that the confession was extracted by police through the use of electric shocks. "I wish all six to be freed," said Mrs Mokoena. — UPI

Cape Times 14/7/89

Giving of privileged info 'very dangerous'

752 (88)

Own Correspondent

GRAHAMSTOWN — A "very dangerous precedent" would be set if an advocate were to be compelled to give evidence about privileged communications which had been made to him by a former client.

This was argued yesterday in the Supreme Court here by Mr Ian Farlam, SC, who appeared on behalf of the Eastern Cape Society of Advocates and two advocates, Mr B Ford and Mr T Fourie

Before yesterday's developments, Mr Justice Zietsman gave leave to the state to call Mr Ford and Mr Fourie as witnesses against their former clients, seven Sterkstroom residents, who face charges of murder, arson and the possession of explosives

The advocates, who initially appeared for the seven as pro Deo counsel, were due to testify yesterday on certain instructions given to them by their clients at consultations

However, when Mr Fourie was called by the state, Mr Farlam intervened and requested the court to allow further argument to be heard on the matter.

He submitted that the court could reconsider its decision — a judgment given on the admissibility of evidence could be recalled by the judge before the end of the case

Mr Justice Zietsman gave leave to the Eastern Cape Society of Advocates to intervene and to Mr Farlam to submit arguments as to whether the judgment should be reviewed

The present application appeared to be an unprecedented one in South Africa

have had enough of adventuring abroad. They are willing to seal off Cambodia from

DEADLINE FOR THE SIX

With the stay of execution for the "Sharpeville Six" due to expire on July 19, their lawyers were this week seeking an extension of the order. The application was expected to be heard either Friday or next Monday in the Pretoria Supreme Court, according to Prakash Diar of Krish Naidoo and Co.

Attorneys for the Six — who last week petitioned the Chief Justice for leave to appeal against the refusal of the Pretoria Supreme Court to re-open their trial and hear fresh evidence — had not received a reply by July 12.

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Another reprieve, another hanging

By JO-ANN BEKKER

IN the week that the minister of justice granted an indefinite stay of execution to the "Sharpeville Six", pending the exhaustion of all legal avenues of appeal, another man went to the gallows.

Moses Mashele, 24, who was convicted of murdering a 77-year-old Nelspruit man, was executed yesterday His death brings to 81 the number of people hanged in South Africa, excluding the "independent homelands", this year, according to the Department of Justice.

Another man who was due to hang with Mashele, Abram Mngomezulu, 23, was granted a stay of execution by the Pretoria Supreme Court on Wednesday. The court ruled he should be allowed time to petition against his sentence.

On Tuesday Minister of Justice Kobie Coetsee announced the indefinite suspension of the Sharpeville Six's execution orders "to afford them the opportunity to pursue the remedy of a possible appeal as well as all other legal remedies at their displosal"

His statement came hours after Joyce Mokhesi — whose brother, Francis Mokhesi is one of the "Six" — held a 40-minute meeting with British Prime Minister Margaret Thatcher After the meeting Thatcher announced in the House of Commons she would make a plea for clemency if the death sentence against the six was confirmed.

MOIRA LEVY reports from London that Mokhesi, who gave up her studies at Oxford to campaign for the lives of the six and other death row political prisoners, said Thatcher had not committed herself to any action on behalf of the six. However, Mokhesi said "there was room to be hopeful".

She said she had reached an agreement with Thatcher not to reveal any details of their discussion, but Thatcher had listened carefully to what she had to say and appeared concerned "as a head of state and as a human being".

Lawyers launch campaign for greater legal aid

ARGUS 15/7/88

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The Argus Correspondent in Johannesburg reports

LAWYERS for Human Rights has launched a national campaign to provide accused people with legal representation which it hopes will ultimately result in an Office of the Public Defender

The campaign came was sparked by a Natal Supreme Court judgment which laid down precise guidelines to ensure that, where neccessary for a fair trial, an accused must be represented

In handing down the judgment, Mr Justice John Didcott said only a shortage of lawyers and a lack of legal aid funds prevented him requiring that no one should be tried without legal representation

To help realise this ideal, Lawyers for Human Rights has set out to involve 2 000 lawyers in a project which will provide representation for 20 accused each day

According to the national director of Lawyers for Human Rights, Mr Brian Currin, lawyers throughout the country will be asked to volunteer their services for an average of three days a year

Mr Currin said the project would deal with only the tip of an iceberg but that the organisation hoped it would engender a "representation ethos" which would ultimately result in legal representation, at least in all criminal cases, becoming an absolute requirement.

The organisation was also in favour of legislation requiring lawyers to set aside a certain number of days a year for pro deo cases

Mr Currin said an article of the Universal Declaration of Human Rights required legal representation as a right In line with this requirement, the United States government had established a public defender programme and its citizens had the right to legal representation

South Africa should be working toward such a system, Mr Currin said

It has been estimated that 100 000 to 150 000 people go to jail every year after trials in which they were not represented

The Natal Supreme Court judgment extends a ruling of the Transvaal Supreme Court handed down by Mr Justice Goldstone, who said there could be a compelete failure of justice unless the accused was informed of his right to legal representation and encouraged to excercise it

Mr Currin said that despite this judgment, handed down earlier this year, Lawyers for Human Rights was involved in cases where an accused's rights were not explained

"A duty exists on the Justice Department to inform magistrates of the position," Mr Currin said

The State body concerned with legal representation, the Legal Aid Board, is to administer R12-million in the 1988-9 financial year, an increase of 33 percent

But despite this increase, the funds were not sufficient and the board was disinclined to get involved in cases which concerned political matters, Mr Currin said.

Move on Six welcomed

Press (252) 17/7/88

THE postponement of the execution of the "Sharpeville Six" by Pretoria has been welcomed by the president of the Anti Apartheid movement, Archbishop Trevor Huddleston.

He warned, however, they could still face the gallows.

Huddleston said: "This shows the immense weight of international protest on South Africa . . .It gives us more hope, but we can't take this as a sign that they won't be executed."

Pretoria announced on Tuesday that the execution had been suspended indefinitely to give defence lawyers a chance to gather new evidence.

A senior South African law professor, Sass Strauss said it was now possible the Six could escape execution if new evidence were found. – Sapa

Pressure over Six off — for now

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STimes 17/7/88

Political Correspondent

THE reprieve granted to the Sharpeville Six has temporarily eased intense international political pressure on the South African Government over the issue.

Even moderately sympathetic governments had been preparing to take action if the scheduled execution went ahead at the end of this week.

Now they are waiting for the outcome of an application by the six to appeal.

The prisoners want the Appeal Court to examine an earlier judgment by the Supreme Court against reopening their case.

While their lawyers said new evidence had come to the fore, the judge said it did not affect their conviction.

The issue of the six — involving a complex legal process — has become a political headache for the Government.

Sanctions

The final authority to grant clemency rests with President P W Botha, who has already turned down one such appeal.

Granting clemency could undermine the integrity of the judicial process and send dangerous signals just before October's elections that violence can be condoned.

On the other hand, important sectors of world opinion are disturbed at the severity of the sentence, and foreign governments face immense public pressure to push for clemency.

The price Pretoria will pay for ignoring this is another twist of the sanctions screw.

Announcing the indefinite postponement of the execution date, Minister of Justice Kobie Coetzee said it had been done "to afford them the opportunity to pursue the remedy of a possible appeal".

● The six, five men and a woman, have been on death row for 30 months since being convicted for their part in the mob murder of Lekoa deputy mayor Jacob Dlamini.

Please Elize, save the Six and help end the violence

17/7/88 Press (252)

City Press, editor Khulu Sibiya this week received a copy of a letter from a Soweto priest to Mrs Elize Botha, wife of State President PW Botha. An edited version of the moving letter is published in place of the his regular column *My Way*

Dear Mrs Botha,

I write to you Madam, in great trepidation, taking into account the fact that your responsibility in life is an awesome one – that of being a wife to the State President of South Africa, a country at crossroads

I write prayerfully, responding to my Christian conscience, my calling as preacher of the Word, my obligation to society as Director of Social Action in the West Transvaal Annual Conference of the African Methodist Episcopal Church, and my duty as a citizen

By the grace of Almighty God I'm able to look beyond my human frailty, and it is not with sheer impudence that I approach you to intervene on the plight of six young people from Sharpeville sentenced to death in a court of law.

It is not as if I don't appreciate the burden your family carries in being at the helm of a country at the centre-stage of international critical focus and deepening crisis at home.

I solemnly share with you your inner woes for the healing of this land and prayer for a timely concerted action to exorcise the malignant tumour of apartheid from the face of the earth

I take this initiative to honestly attempt to open a line of communication between us as members of our respective families, praying that it should been seen as a symbolic endeavour by all of our fellow citizens – bereft of goodwill by a legacy of fear, distrust and bitterness – to look at alternatives in our lives other than in political institutions, to bring it home to more to adapt and circumvent the ghastly option of having to die for the folly of the past as each of us ponders our role in SA today

It is tragic for us to yearn for a world beyond apartheid and yet brook tendencies that would paradoxically stop at nothing to show the scalps of those whom apartheid has categorically put on the receiving end of its menacing blows – those who find themselves in locations that have been effectively rendered ungovernable by a battery of legislation since the beginning of the application of separate development in this country, long before the African National Congress and the Pan Africanist Congress were forced underground

Waiting in death row now is a young woman, Theresa, and five young men Some of them were babies during the 1960 Sharpeville massacre, and some were not yet born

Being born in Sharpeville at the time of the massacre or a few years after that bequeathes them a spectre of death and the feeling of being victims.

What good can come out of Sharpeville? While the controversy of their being convicted for complicity in a crime on the basis of the doctrine of common purpose proliferates new arguments in legal circles, the last vestiges of goodwill in our beloved country run the risk of being corroded by frustration and anger resulting from this sad episode

The pain and trauma visited upon the Dlamimi family, and this society, by the spine-chilling murder of the Vaal councillor, should be stopped from compounding, as it will if on the basis of the legally unsettling conclusion, the the Six have to die

How does society morally justify the mortal torture of these young people, some of whom are known to be avowed Christians from upright Christian families, especially after a glimmer of hope was given by their successful application for stay of execution.

Is it not to these young South Africans, full of hope for the future, that clemency is deserved?

I solicit your prayerful support of the State President on this matter – to do all in his power to avert another Sharpeville (1960) another Soweto (1976) and senseless loss of life that might turn the Vaal (1984) into just a brawl.

I am asking you, Mrs Botha, as you look at the background of this experience, to help where you can – to put a plea to the State President for the healing of this country from the memory of Sharpeville

Compatriot, what will we do with the Sharpeville Six – a young woman and five young men with no past political history besides being born at Sharpeville – which would have remained known to few in South Africa were it not for the March 21, 1960, slaughter

As an average man I hope to stir ordinary men and women of this country to stand up, join hands together and pray for the pardon of the Six, because deep in my heart, I know we shall overcome someday – **Yours sincerely, Rev Paul Vilakazi.**

Assocom to tell govt about 'Six'

JOHANNESBURG — Assocom was reporting to the government on overseas impressions of the Sharpeville Six, the chief executive of the Association of Chambers of Commerce and Industries (Assocom), Mr Raymond Parsons, said yesterday

He was reacting to reports in certain Sunday newspapers yesterday regarding the role of Assocom and the Sharpeville Six, whose execution was recently postponed — Sapa

Six: date not confirmed

BLOEMFONTEIN — No official confirmation could be obtained here yesterday of a report from Pretoria that the petition of the Sharpeville Six would be argued in the Appeal Court on September 7.

The registrar's office has no documentation to confirm that argument may be heard on the petition on the date stated in the Pretoria report.

Applications for leave to appeal are usually considered by judges-in-chambers and no reasons are given for their decision to grant or reject an application.

The petition of Mojalefa Sefatsa, Reid Mokoena, Oupa Diniso, Duma Khumalo, Francis Mokgesi and Theresa Ramashamola was lodged with the Appeal Court against the decision of the Transvaal Supreme Court that their case should not be reopened to hear evidence of a State witness, Joseph Manete

It was alleged this evidence could have led the trial court and the Appeal Court to have reached a different conclusion from the finding that all six were guilty of the murder of Lekoa deputy mayor Jacob Khuzwayo Dlamini. — Sapa.

(252) B/day 21/7/88

Hangings: Time for repeal?

On June 23 this year, the Minister of Justice, Mr Kobie Coetsee, revealed in Parliament that 994 people had been sentenced to death in the five years between 1983 and 1987. Of these nearly 60 percent — or 593 — were executed. What the Minister did not mention, however, is that South Africa probably hangs more people than any other country in the world — and the number is rising. By May this year 59 people had been executed compared to three in the United States. PRESS TRUST reports that 274 people are awaiting execution on Pretoria Central Prison's deathrow.

A protester at a recent rally against the death sentence

MANY years ago, a young man was sentenced to death for helping to ambush and murder a powerfully-built man The trial judge refused to allow him an appeal against the death sentence

In a desperate bid to save his life, his family scraped together funds to contract another lawyer to fight an appeal When the new lawyer visited his client, he noticed the condemned man was crippled and his hands were deformed The Appeal Court acquitted the condemned man, without even hearing legal argument

Examples of such judicial error are found all over the world It illustrates the intrinsic dangers of capital punishment Statistics show that capital punishment is no deterrent to murder But the lobby in favour of capital punishment still remains strong — and many are still sentenced to death But what about what has commonly become known as "politically motivated offences"

In the United States the race of the person on trial is a factor when the death sentence is considered, according to Professor John Dugard, of the University of the Witwatersrand

Political crimes

"There is no reason to believe the situation here will be different In addition to political causes, it is a known fact that homicide and murder reach high proportions in societies which are unsettled, industrialising and experiencing an increasing level of urbanisation "

But, said Dugard, the high rate of execution was also linked to other identifiable factors In South African courts there was a possibility of judicial error, especially when those on trial were black.

"Trials are held in either English or Afrikaans, not in the accused's own language There is always the possibility of faulty translations," Dugard said

The defence could call for an interpreter but the essence of evidence could be lost in translation

It appeared, he said, that the Government cared more for a civil case than one which involved a capital crime

In terms of the regulations governing the Legal Aid Board, a person in a civil case, like divorce, would be appointed an attorney and an advocate whereas in capital cases the court only appoints an advocate

This was highly inadequate and often a young advocate's first appearance in court was pro deo - when the advocate was not skilled in cross-examining witnesses There was also no provision for pro deo counsels to research the background of the case — something that was essential to convince the court of extenuating circumstances

'Common purpose'

Compounding the problem, he says, is that in South Africa there is no automatic right of appeal The Minister of Justice has stated that of those sentenced to death between 1983 and 1987, only 55,9 percent were given leave to appeal

"Judges can be placed in three categories There are those opposed to the death sentence, those who see the application of the sentence as routine and finally there are those who see it as a desirable deterrent "

The differences in the sentences "for murder in not vastly dissimilar circumstances" given to the "Sharpeville Six" and six members of the conservative Zulu Inkatha organisation was a case in point

The "Sharpeville Six" were all sentenced to death on the basis of the legal doctrine of "common purpose", for being part of the crowd involved in the murder of a black town councillor The six Inkatha members were given effective sentences ranging between one-and-a-half years to three-and-a-half years for the murder of an elderly woman

But in the end, Dugard argued, the extensive use of the death penalty really rested on the attitude of the authorities to capital punishment.

"The real reason why there are so many executions in South Africa is the Government's attitude "

This he said was reflected in the laws of the land and their implementation

"There are seven capital crimes in this country so the courts are obliged to consider imposing the death sentence in a large number of cases " And while there were very clear procedures and guidelines for reprieve, clemency was very seldom granted

Statistics show that the State President commuted 115 death sentences between 1983 and 1987

Said Dugard "PW Botha's reason for not wanting to commute death sentences is that he does not want to interfere in the 'due process of the law' But this is very misleading

Death sentence

"He knows that there is an entire chapter in the Criminal Procedure Act devoted to reprieve and which clearly states he has the right to intervene in that process

"And while the retention of the death penalty is probably used for reasons of retribution — to present a picture of kragdadigheid (power) — it means they are completely out of step with the legal systems of Europe "

Dugard said the Government had also missed the boat as far as public opinion was concerned

If you had to look at opinion polls in the West and here in South Africa you would find that at least 60 to 70 percent of all the people in the country would vote for the retention of the death sentence because it is the layman's crude way of thinking about punishment.

"But in Britain the government sees itself as enlightened and leaders of public opinion and they have changed the law "

'Kragdadigheid'

Against this background Dugard said, he remained pessimistic that the death sentence would ever be abolished But this should not deter the ordinary person from campaigning for abolition since there were a number of practical steps that could be taken to at least reduce the number of death sentences in South Africa

These, Dugard said, would probably be taken up by the Society for the Abolition of the Death Penalty at its re institution and would include campaigning for adequate legal counsel, the automatic right to appeal and that the presiding judge be assisted by assessors able to speak the language of the accused

However, it appears that even this is going to be an arduous task White South Africans are seldom mobilised into action except when there were white lives at stake as demonstrated by a current petition calling for clemency for the lives of two white policemen, sentenced to death for murder

Boy gets 15 years for cop's murder

752

Cape Times 23/7/88

BLOEMFONTEIN. — A 16-year-old Virginia boy convicted of the murder of 19-year-old Constable Wilhelm Lotter has been effectively imprisoned for 15 years by the Free State Supreme Court here

Mr Justice D A Kotze jailed the 16-year-old for 10 years for the murder, two terms of five years — to be served concurrently — on two counts of robbery with aggravating circumstances, and six months — to be served concurrently with the five years — for theft and unlawful possession of a firearm and ammunition

His 17-year-old co-accused was sentenced to five years for one robbery and six years for the other and six months — concurrent — for the theft and unlawful possession of a firearm and ammunition

In the first robbery, Mr Ludwig Kruger was robbed of his car while escorting the boys back to a special school at Queenstown The second robbery was of the car of Const Lotter, who was shot near Virginia on March 6.

The pistol was stolen from the home of the 17-year-old's foster mother

Mr Justice Kotze said both accused had displayed a calm and dispassionate attitude throughout in the exceptional circumstances

He said that when one saw the boys' mothers in court, one wished that one possessed more wisdom to impose a sentence with certainty and less remorse

He said robbing Mr Kruger was a most serious crime, particularly as Mr Kruger could not yet "make peace" with the incident

It was shocking that two such young people should be so hardened as to commit another gruesome robbery so soon afterwards It was callous to have killed the proverbial "Good Samaritan" after he had offered them help

Mr Justice Kotze said that had the boys been older, they would have been sentenced to death

The boys had deprived Constable Lotter of being able to enjoy his car and to show it off to his friends, he said

They had also deprived his parents — who were due to retire and look forward to possible grandchildren — of their only son — Sapa

Six's re-hearing date set

24/7/88 C/Press

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THE Sharpeville Six's petition to have their case re-opened will be heard on September 7 in the Appeal Court.

A petition to the Chief Justice for leave to appeal against the trial court's refusal to reopen the case for further evidence is the last legal option left to prevent their execution

If it fails, their only other hope is to petition the State President for clemency in terms of Section 327 of the Criminal Procedures Act.

The five men and one woman, who have become known as the Sharpeville Six, have been on death row since December 1985 for the murder of Lekoa deputy mayor Jacob Kuzwayo Dlamini.

Their petition follows the refusal by the trial court to allow the Six leave to appeal against the Judge's decision in June not to reopen the case to hear the evidence of a State witness, Joseph Manete, who has alleged that he perjured himself.

In terms of an Appeal Court ruling the acting Chief Justice, Judge Rabie, has decided five Appeal Court judges will hear argument for the petition for leave to appeal against the trial court's decision. — Sapa

(216) B/day 25/7/88

Eastern diamond sales boom

TOKYO — Booming demand for diamonds in Japan and its East Asian neighbours was helping to push world prices for the gems higher this year, Asian traders said

They said diamond rings had become a fad in fashion-conscious Japan, now the second largest market for diamonds after the US Imports up to mid-July were about 50% up on last year's figures.

De Beers, which controls 80% of the world diamond trade, is reaping the benefits. It said its world sales of rough gems and industrial diamonds were up 41% to a record $2,2bn in the first half of this year compared with the same period last year. The company also raised prices 13,5% in May

Retailers in Japan said the sudden boom in diamond sales was partly due to the strong yen, which had made diamonds a bargain for Japanese consumers

A recent advertising campaign also successfully pushed the romantic appeal of diamond gifts, enticing young Japanese into the jewellery shops.

"You might say there is a fad among young people here to own a piece of diamond jewellery," said an executive in one importing firm.

Ryo Yamaguchi, managing director of K Mikimoto and Co, one of Japan's largest retail jewellers, said unmarried Japanese working women generally had money to spend on jewellery and other luxuries as many lived with their parents

Thailand, which in the past few years has become the world's biggest producer and cutter of coloured stones, imported more diamonds in the first four months of this year than during the whole of 1987

In Taiwan and South Korea, diamond sales have been booming along with economic growth But in both countries, heavy import duties have driven the market almost entirely underground

Exact figures for imports are unavailable But a 1986 survey by De Beers ranked South Korea as the fifth largest diamond market in the world Unofficial estimates put diamond demand there at about $500m a year — Sapa-Reuter

'Normal process of law affected'

Cape Times 25/7/88

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BLOEMFONTEIN — Deepest concern at the reimposition of the state of emergency was expressed by the General Bar Council in an unanimous decision for the four constituent councils at the annual meeting here on Saturday.

It was said that this concern stemmed from the fact that the state of emergency involved a fundamental interference with the normal processes of the law. The council was strongly of the view that the proper administration of justice was seriously impeded while recourse to the courts was denied to people detained without trial

Abolition of Latin as prerequisite

In a majority decision, about three-quarters of the country's advocates voted for the abolition of the statutory requirement of Latin as a prerequisite for admission to the Bar to practise as an advocate. An important reason for this change in the Bar's attitude is that the requirement of Latin constitutes a major stumbling block to black people who wish to make a career at the Bar "The General Council is committed to trying to attract more young blacks to the profession in order to provide the best qualified material for future appointments to the Supreme Court bench," said a statement issued after the meeting

More than 1 000 Pro Deo cases

The Bar Council noted that in the past 12 months more than 1 000 cases in which the accused were charged with crimes for which the death penalty is a competent sentence, had been defended by members of the Bar under the "Pro Deo" system.

Under this system, counsel acts without the assistance of an attorney and is paid R120 a trial day by the state.

"Where junior counsel's monthly expenses, conservatively calculated, amount to a minimum of about R1 200, the burdern of doing this work, which the Bar has traditionally undertaken, weighs heavily on advocates that undertake it (as they are obliged to do under Bar Rules)," said the statement

The hope was expressed that some relief by way of an increase in these fees would be forthcoming.

Mr R H Zulman SC, of the Johannesburg Bar, was elected chairman in the place of Mr H P Viljoen SC Mr M Seligson SC, of the Cape Bar, is the new vice-chairman.

● The fact that South Africa has no black judges was highlighted in an article by Prof Charles Dlamini, head of the University of Zululand's Department of Criminal and Procedural Law, in the latest edition of the South African attorneys' journal De Rebus. Prof Dlamini also said that while blacks outnumber whites five to one, white attorneys, advocates, magistrates and prosecutors outnumber their black collegues by more than 10 to one. — Sapa and Own Correspondent

Inquest on Goniwe postponed to next year

CAPE TIMES 26/7/88

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Own Correspondent

PORT ELIZABETH. — The inquest on Mr Matthew Goniwe, a Cradock community leader and schoolteacher, and three companions was postponed yesterday to February 15 next year for hearing by the Inquest Court here.

Mr H van der Walt, who was to have led evidence, told the court the state and legal representatives of the families of the dead leaders had agreed that the inquest be set down for hearing on February 15 next year to enable the families of the dead men time to brief senior counsel

The other dead are Mr Fort Calata, Mr Sparrow Mkhonto and Mr Sicelo Mhlawuli

Mr Van der Walt said a more spacious venue for the inquest would be arranged by the state

At yesterday's brief hearing were the wives and families of the dead men, prominent Cradock residents, members of the Black Sash and the head of the Eastern Cape Murder and Robbery squad, Captain Kobus Jonker

Mr E L de Kock was on the Bench

Mr J W Pienaar of the Legal Resources Centre appeared for the families

More than 500 people attended a church service in Lingelihle on Saturday for Mr Goniwe and his three colleagues to commemorate the third anniversary of their deaths

The service was attended by the wives of three of the dead leaders with the exception of Mrs N Mhlawuli who could not attend

The families held lighted candles symbolic of the leaders' spirit

Canon Mcebisi Xundu, chairman of the Eastern Cape Council of Churches, was the main speaker

Mr Goniwe and the other men vanished after they left Port Elizabeth for Cradock having attended a United Democratic Front briefing on June 27, 1985

Their bodies were found five days later in a clearing near St George's Strand outside Port Elizabeth, stabbed and burnt

Their burnt-out car was found alongside the road to Grahamstown before the discovery of the bodies

The United Democratic Front offered a R5 000 reward for information leading to the arrest of people responsible for their deaths

Judgment: Advocates let off the hook

Cape Times 27/7/88

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Own Correspondent

GRAHAMSTOWN — Two Grahamstown advocates will not have to give evidence in court against their former clients

This is the effect of a judgment made yesterday by Mr Justice Zietsman.

He ruled that the outcome of his judgment made two weeks ago, in which he had given leave to the state to call two advocates as state witnesses, was incorrect.

The judge said that in the light of this finding, the state's application to call advocates Mr B Ford and Mr T Fourie to give evidence on instructions given to them by their former clients, seven Sterkstroom residents, was refused.

Mr Fourie and Mr Ford initially appeared for the seven, who face charges of murder, arson and the illegal possession of explosives, as pro Deo counsel.

The judge said that after he had delivered his judgment on July 11, Mr Ian Farlam, SC, sought leave to intervene in the matter on behalf of the Eastern Cape Society of Advocates and Mr Ford and Mr Fourie to ask the judge to change his decision

Mr Farlam had submitted that the court was incorrect in its decision that the privilege attached to the communications made by the accused to their former counsel in consultations had been waived

Alternatively, he had submitted that the court had a discretion and that the judge should use this discretion and refuse the application

Standing by his earlier decision on the first issue, Mr Justice Zietsman yesterday said that on the facts of the case, a waiver of privilege had taken place

Turning to the question of discretion, he said Mr Farlam had emphasized the far-reaching effects of the judgment given on July 11 — that it could hamper the administration of justice and that clients would have difficulty in gaining the confidence of pro Deo counsel

Six: Europe threatens Pretoria

JOHANNESBURG. — If the Sharpeville Six are executed, major European countries could be expected to reduce South Africa's diplomatic presence and refuse landing rights to aircraft from South Africa and visas to Republic passport-holders.

This grim warning was given at an Assocom press conference here following the return of a delegation which studied foreign perceptions of South Africa The delegation was led by the chairman, Mr Alec Rogoff, and chief executive officer, Mr Raymond Parsons

The Assocom mission, which visited the US, Europe and Israel, has conveyed its report to the "highest levels" of government

Mr Rogoff said that if the six were executed, European Economic Community (EEC) countries would take "measures of displeasure" against South Africa

These steps would include

- Reducing the number of SA diplomats in EEC countries
- The expulsion of certain ambassadors
- The refusal of landing rights to aircraft from SA.
- The refusal of visas to SA passport-holders,

Mr Rogoff said that while the EEC was against economic sanctions, it would regard the above steps as acceptable and meaningful

Urgent matter

However, Assocom had told the EEC that the steps were "economic" and that by preventing SA businessmen direct access to Europe the steps could damage the SA economy

"South Africa must not confuse its friends with enemies, nor take actions which make it impossible for our friends overseas to defend us"

It went on to say "The cost of further political isolation will be high in term of economic growth and prosperity South Africa needs the world economy in order to successfully address its development needs

"This is an urgent matter as South Africa stands on the threshold of further punitive steps against it

"It is not a question of capitulating to overseas pressure, but rather of keeping it down to manageable proportions"

Assocom said in their report that the issues that particularly upset Europeans were

- The question of the Sharpeville Six and their possible execution
- The implications of the proposed legislation to control foreign funding of political activities in South Africa
- The restrictions placed on certain trade unions on February 24
- The proposed amendments to the Labour Relations Act.
- The restrictions on the media

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P.T.O.

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Assocom

● The question of child detainees

● The general issue of civil rights in South Africa

"While the Assocom mission did attempt to place certain of these developments in their proper perspective, it is clear that the cumulative impact of these factors could mean a further irrevocable shift in overseas opinion against South Africa

"In that event, further anti-South African steps may be taken in the near future by EEC countries, leaving aside the question of the so-called Dellums legislation in the US."

Most European businessmen were not aware of the full implications of the US Dellums bill, said Mr Rogoff

Assocom said "Together with other developments, there is now a good chance that that the legislation may not be passed by the US Congress this year

"At the same time the convergence of opinion overseas on this question strongly suggested that the EEC did not want matters ever to develop to the point at which they would have to choose between doing business with the US or South Africa"

Assocom said that the Dellums bill was wanting to set the US up as "the policeman of the world" on sanctions and wanted to secure compliance from third countries through the back door

Assocom also said there was a distinct deterioration in perceptions abroad on the pace of change in South Africa "This was underscored by a sense of impatience and disappointment at the slow pace at which the reform process was perceived to be advancing Friends of South Africa abroad seemed to be under great strain"

Assocom said there was still unhappiness in banking circles about the debt standstill arrangement and the rescheduling of foreign debt repayments

It said "They had been warned that the situation could change for the worse in June 1990."

— Sapa

Prof suggests utilizing 'citizen force' lawyers

(252) Cape Times 28/7/88

JOHANNESBURG — The Dean of the Law Faculty at the University of Natal in Durban, Professor David McQuoid-Mason, recommended that lawyers doing their national service should be seconded to legal aid clinics, to act as public defenders

He said that every year more than 100 000 people go to jail without being represented

Prof McQuoid-Mason said magistrates could stop trials and call for the accused to be represented, but there were only 7 000 lawyers available

Only about 7 000 criminal cases a year were handled by the Legal Aid Board, and advocates handled a few thousand "pro Deo".

A recent judgment by Mr Justice Didcott declared that poor people should be provided with legal representation in criminal cases with serious consequences. — Sapa

Community service set to keep small-time offenders out of jail

By STEPHEN WROTTESLEY
Crime Reporter

WITHIN weeks more small-time offenders could find themselves being sent out into the community to work after hours and at weekends instead of going to jail.

In Vryburg, Northern Cape people serving community service sentences must dig graves or clean pavements

In Stellenbosch, 10 students will work in post offices after being found guilty of using "long tickeys" at public telephone booths

A Cape Town teenager who dealt in LSD had to help with weeding, gardening and maintainance at the National Botanic Gardens, Kirstenbosch and a confidence trickster had to work at a home for the aged

These are among the possibilities of the Government's decision to expand the system of community service sentences

A spokesman for the Department of Justice said this week the necessary infrastructure to implement the decision could be set up in four or five weeks

Different types

The type of community service offenders would perform was at the discretion of the courts

"The sentences will differ from town to town. It depends on the infrastructure," he said

The move is a result of the Department of Justice's belief that community service will serve the needs of offenders and the community better than imprisonment

A departmental working group found that the high prison population created a need to look at other sentencing options More community service was one of them

The group found that legislation was unclear and there was uncertainty about the precise meaning of community service.

New legislation was passed but it was stipulated that it would come into effect only at a date to be decided by the State President

The Minister of Justice, Mr Kobie Coetsee, said recently a prerequisite for its being implemented was the establishment of a broad infrastructure

First in 1963

Some magistrates have for years been imposing community service sentences but, according to Mr Coetsee, this is not the general rule

The first case was recorded in 1963 when a man convicted of culpable homicide was given a two-year suspended jail term on condition he worked at weekends in a hospital's casualty ward

Mr Coetsee said recently that the benefits of community service were an important question to be considered.

He said "The offender will firstly serve his sentence outside the prison walls without severing family and social ties and the consequent often traumatic process of adaptation," he said

"The offender will usually be able to continue his employment and will be able to support his family

"The loss of self-respect which may be caused by incarceration will be prevented"

He added that the climate for rehabilitation offered by community service would be more favourable and could in certain cases bring the offender face to face with factors that caused him to commit the offence in the first place

● South African prisons were overcrowded by nearly 34 percent last year and a quarter of the prisoners were short-termers, many of whom might have been eligible for community service sentences.

Why we must stand up for our rights

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S/Times 31/7/88

by Harald Pakendorf

a distinguished political analyst

THE problem with the freedom of the Press in South Africa is that it has been gradually diminishing over the years

And the process is continuing — to such an extent that the present uproar among journalists finds little response among the general public, mostly because they are not really aware of the very real inroads that have been made into their right to know what is happening in their own country

Because the process has been gradual does not mean, however, that it should be accepted To reverse it is going to be very difficult but an attempt should be made at least to halt the deterioration

Inefficiency

There are in fact several disturbing factors about the present onslaught on the Press. Three need to be discussed

The first is the inefficiency of the Department of Home Affairs. When the latest set of emergency regulations were published, it appeared that registration of some journalists was required. But it was not clear

Then, following legal opinion, it seemed as if all newspapers were involved At a very late stage, officials suddenly said that all newspapermen had to register Suddenly Mr Stoffel Botha, Minister of Home Affairs insisted that was not what was meant He agreed to look at the regulations and then suspended them

How could it take so long for the Government to find out that its regulations meant something different? Is somebody going to be fired for being so inefficient, or at least rapped over the knuckles?

Anathema

Is it going to be explained to the officials that regulations are not a secret and that their intent and meaning ought to be explained when there are queries — something which did not happen for weeks.

Secondly, this is not the first time there has been talk of a register of journalists. The original thought came from the Steyn Commission which looked into the Press.

Journalists fought that one till it went away — or so they thought.

It was pointed out at the time that any register would end up as control by the State, something which is total anathema to any concept of the freedom of the Press.

The present registration threat goes way beyond what was envisaged originally This time a journalist could be struck off the roll simply because the Minister concerned is of the opinion that it is necessary for the maintenance of law and order or public safety

It is difficult to conceive of a measure which would more effectively stifle the last vestiges of Press freedom in this country

But, thirdly and possibly in a fundamental sense the worse aspect of the onslaught is that it represents one more example of the State wanting to act in a way which would hold it accountable to no one

As with all aspects touched by the emergency regulations, the State can do what it wishes — it has to explain to no one, the courts cannot intervene, the whim of a Minister is the only criterion

So insidious has this approach become that elements of it are to be found in "regular" Bills too, such as the proposed legislation to amend the Group Areas Act, provide for open areas and control squatting

It is a trend which, in the long run, is more dangerous than anything democracy has had to face yet in South Africa

Lost

Freedom, once lost, is very difficult to regain Not only because this Government will not easily return to earlier, democratic, attitudes but because succeeding governments will also be encouraged to act undemocratically

Freedom is not given by a government It has constantly to be fought for by citizens There is very little sign of South Africans standing up and fighting for their rights.

That is what is most disturbing.

Shot in the arm for abolitionists

Opposition to death penalty is mounting

Own Correspondent

DURBAN — The growing clamour for the scrapping of the death penalty was given a boost last week when a Natal judge came out publicly in support of changes to the law

Mr Justice Booysen told law students in Durban that passing the death sentence was "the most chilling experience" of his life

His views, experts say, are shared by many of his colleagues on the Bench, who find themselves in a no-win situation They are forced to impose the death penalty in cases of murder where no extenuating circumstances are found

In recent years Mr Justice Leon of Natal, Mr Justice Maritz, former Judge President of the Transvaal and Mr Justice Krause have been among those to express opposition to the death penalty after their retirement from the Bench

Recently the Natal Association of Democratic Lawyers announced it would campaign against the death penalty and four months ago a former Director General of the Department of Justice, Mr Philip Coetzer, called for the mandatory death sentence to be scrapped

Mr Justice Booysen's statements were welcomed last week by the recently revived Society for the Abolition of the Death Penalty and other legal specialists

The society, headed by Professor Elison Kahn of Wits University, plans a series of public meetings

Two Durban advocates have refused positions on the Bench because they are so strongly opposed to capital punishment

Professor John Milton, director of the Law School at the University of Natal (Maritzburg), said the issue imposed constraints on advocates He believed refusals to serve on the Bench "could hold unfortunate implications for the execution of justice"

Last week Mr Justice Booysen said he had had "sleepless nights" over the death penalty He did not believe he would ever get used to having to pass it

He has had to impose the death sentence twice in the past two years "If I had the choice I would amend the Act so that I would never have to do it again, as long as it is part of the law, I am obliged to," he said

Any judge who had ever had to impose the death sentence would not be in favour of it, he added

As the law stands, judges are compelled to pass the death sentence in cases of murder where no extenuating circumstances are found Critics want judges to be given discretion, as they are in other cases

Professor J C van der Walt, dean of the law faculty at Rand Afrikaans University, added his voice at the weekend to those who believe judges should have "complete discretion" in passing the death penalty "They should not be fettered by the law," he said

Professor Kahn, who is one of many in the legal world who want the death penalty scrapped entirely, said there was a growing body of opinion that judges should be given discretion

The dean of law at the University of Natal (Durban), Professor David MaQuoid Mason, said Mr Justice Booysen's views were shared by many judges

He said he favoured the scrapping of the death penalty "but if it is retained it should be left to the discretion of judges"

Kentridge will argue 'Six' case

252 Star 2/8/88

MOR EVE CIT

Distinguished jurist and defence advocate in the Biko inquest, Mr Sydney Kentridge, QC, has been instructed to argue the Sharpeville Six's appeal, an attorney, Mr Prakash Diar, said last night.

He said the decision to change the advocates instructed to represent the Six was motivated by a desire to get the best legal representation possible

Mr Kentridge and Mr Ishmail Mahomed, SC, will argue the appeal to be heard in Bloemfontein on September 7.

Privilege or justice?

28/05/87 (252)

BY TIM COHEN

How confidential are your discussions with your lawyer? To what extent are these discussions "privileged"? This question was one of the main issues discussed during the appeal of the Sharpeville Six and the court finally decided — against the accused — that privilege was a "fundamental principle on which our judicial system is based" However, Mr David Unterhalter, in an article published in the latest edition of the South African Law Journal, argues that the right of the accused to prove himself innocent is the greater right

Proof of innocence the greatest criterion

In the middle of a long and somewhat wearisome session of cross-examination during the original trial of the Sharpeville Six, a dramatic sequence of events took place

Counsel for the defence requested the trial judge to order that the witness, Mr Joseph Manete, should temporarily stand down and leave the courtroom

Mr Justice Human acceded to the request

Counsel, Mr Jack Unterhalter SC, then informed the judge that he was in possession of a statement made by the witness to an attorney — the very same attorney who was then appearing for the accused The statement was made in the course of obtaining professional advice and was therefore privileged

The judge asked counsel whether the court had any power to order the witness to answer questions on this statement and council replied that he did After discussing the legal questions the following discussion took place

Court My difficulty is I do not know how this statement will assist How can I make a ruling before I know that?

Implicate

Mr Unterhalter Well, My Lord, without going into detail

Court Well, I must know

Mr Unterhalter Yes. Well, if I may, with Your Lordship's permission to do so, the contents of this statement are to the effect that the implication of accused No 7 and No 8 is not a voluntary implication

Court I beg your pardon? It was not a voluntary what?

Mr Unterhalter It was not a voluntary implication of accused Nos 7 and 8, but he was told to implicate them he did it because he was told by the police to do it

After hearing further argument, the judge decided "Where the witness claims privilege in regard to a statement that he had made to a professional person and he does not waive that privilege, I have no power to order him to be cross-examined"

On appeal, Mr Justice Botha came to the conclusion that the trial court judge was correct in not allowing cross-examination, but on a rather different basis

During the appeal judgment, Mr Justice Botha said "Whether in such circumstances the rule of privilege can ever be relaxed, as a matter of principle, need not be decided in this case I shall assume that it can I have no doubt that the question of the relaxation of the rule can arise only in the context of the exercise of a discretion by the trial judge, based on the consideration of all the information relevant to the question

"The mere allegation on behalf of the accused that cross-examination on the statement may endure to their benefit, without more, cannot, I conceive, be sufficient to enable the discretion of the trial judge to come into play

In the recently published article, Mr Jack Unterhalter came to the conclusion that "moral common sense tells us" cross-examination should have been permitted and that the judgment was a "gravely wrong decision".

Mr Unterhalter argues that the judge placed a "wholly exaggerated value upon legal professional privilege within our legal system and proceeded from an unjustified premise to legal arguments of the most doubtful justice

He says the claim that the privilege is a fundamental right fails for two reasons firstly it does not fit into the structure of rules in our law dealing with privilege and secondly, the principles of equality and party responsibility upheld by the privilege are only two among several principles which constitute procedural fairness in the criminal trial

"No principal is more integral to our conception of a fair trial than the right of an accused person to prove his innocence

"A system of criminal justice which recognises the presumption of innocence and casts the onus upon the prosecution to prove the accused's guilt beyond all reasonable doubt makes the clearest commitment to the idea that the error of convicting the innocent is a much graver wrong than that of acquitting the guilty

Innocence

"The argument that the trial judge should carefully test the weight of the defence claim to cross-examine fails because "the accused has a right to put before the court evidence which goes some way, however small, towards the proof of his innocence"

The argument that the court must be satisfied that the evidence will assist the accused in his case fails because "whether the defence in fact has in its possession a privileged statement relevant to the proof of innocence has no bearing on the question of principle whether the accused has a right to make use of such a statement"

" it is an irony of the decision, that counsel can only tell the court how the statement will assist the accused by informing the court of its contents, and this, too, gratuitously invades the witness's privilege ."

Bring black language into law degree, say students

ARGUS 2/8/88 252

By JEREMY DOWSON, Staff Reporter

WHILE many of the country's advocates want Latin scrapped as a prerequisite for admission to the Bar, University of Cape Town law students have called for a black language to be made compulsory instead.

The UCT Law Students' Council was among bodies and members of the legal profession asked to comment on whether Latin should be compulsory for aspirant advocates.

The dean of the University of the Western Cape law faculty, Professor Daan van Rensburg, said the lack of black judges was "one of the main reasons we support the abolition of the Latin requirement".

It was "very unfair" that students with, for example, Xhosa or Sotho as their first language, had to pass post-matric courses in English, Afrikaans and Latin.

STARTING FROM SCRATCH

The irony was that "most lawyers — even some law professors — can't read Latin any more".

Some students — particularly those from Transkei or Ciskei — arrived at UWC without having studied Afrikaans.

"This means they have to get up to the level of matric before being able to to do the Afrikaans I course."

Professor van Rensburg agreed with Professor Charles Dlamini, head of the University of Zululand's law department, who believes that unless ways are found of addressing problems surrounding the entry of blacks into the legal profession, the situation of only white judges on the Bench will persist.

A "MAJOR BARRIER"

The dean of law at UCT, Professor Bill Whitaker, said the faculty supported the abolition of Latin as a compulsory requirement.

"I believe Latin to be a very good discipline, but I can't say I regard it as being absolutely essential for a practising lawyer. Most practitioners here have taken the view that it is not essential."

Latin was "a major barrier" to blacks wishing to enter the profession.

"Latin doesn't come easily to anyone — black or white. But on the whole, whites don't seem to experience the same difficulty with the language as blacks."

The dean of law at the University of Pretoria, Professor David Joubert, said about 80 percent of academics in his faculty were in favour of compulsory Latin.

"We believe a specialist lawyer — which is what an advocate is — should be able to read and evaluate the old Roman law authorities."

The dean of law at Stellenbosch University, Professor Cornie van der Merwe, said about 90 percent of academics in his faculty supported the retention of Latin.

"Those who have done Latin at school tend to do better at law. It teaches one to be precise."

COMPULSORY LANGUAGE

He did not believe Latin was a major stumbling block to anyone, black or white, and said that at Stellenbosch a higher percentage of students failed private law than Latin.

The president of the UCT Law Students' Council, Mr Stuart Mathews, said the council believed a black language should be made compulsory instead.

However, the council did not view the Latin requirement as "by any means the biggest stumbling block" for blacks entering law.

"There's a wide range of reasons more blacks do not become advocates — including socio-economic and political factors," he said.

The president of the Cape Bar Council, Mr Gys Hofmeyr, SC, confirmed that in a referendum this year members of the Bar had voted for Latin to be dropped as a requirement for admission as an advocate.

A local lawyer described the outcome of the poll as showing "an important shift in thinking". He regarded it as being "directly related to concern about the need for more black advocates".

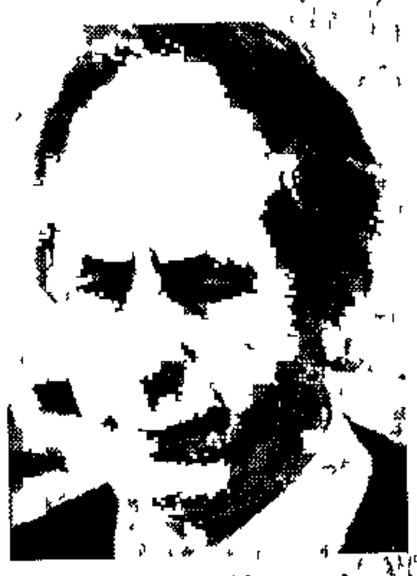
● The Western Cape branch of the Democratic Lawyers' Association declined to comment.

Cape Times 3/8/88

Kentridge to act for the Sharpeville Six

Own Correspondent

JOHANNESBURG — The distinguished South African jurist and advocate in the Biko inquest, Mr Sydney Kentridge, QC, has been instructed to argue the application for leave to appeal against the Pretoria Supreme Court ruling against the reopening of the Sharpeville Six trial



Mr Sydney Kentridge

Mr Kentridge will argue the application in the Appellate Division in Bloemfontein with advocates Mr Ismail Ayob and Mr Jack Unterhalter, on September 7

Argument will be heard before five Appeal Court judges, which the attorney for the Six, Mr Prakash Diar, said was "unusual" Appeals are usually heard before two judges

Mr Diar said advocates were changed to get the best possible legal representation.

Five judges to hear 'Six' appeal bid

3/8/88

B/Day

252

EDYTH BULBRING

FIVE judges will hear the application for leave to appeal against the Pretoria Supreme Court's decision to deny the reopening of the trial of the "Sharpeville Six".

Attorney for the Six, Prakesh Diar, said this was unusual — appeals are normally heard by two Appeal Court judges.

Sydney Kentridge, QC, has been instructed to argue the application for leave to appeal before the Appellate Division in Bloemfontein. He will be assisted by Ishmail Mahomed, SC, and Jack Unterhalter, SC. The hearing is set for September 7.

Diar said Kentridge would be travelling from England to represent the Six.

'Six' argument will be heard in September

ARGUMENT on the petition by the "Sharpeville Six" for leave to appeal against the dismissal of their application to re-open their trial will be heard by five judges of the Appeal Court in Bloemfontein.

The argument will be presented on September 7

The petition was lodged with the court after Mr Acting Justice W J Human rejected an application in June for the trial to be re-opened, with specific reference to the testimony of a witness, Mr Joseph Manete

Mojalefa Reginald Sefatsa, Reid Malebo Mokoena, Oupa Moses Diniso, Theresa Ramashamola, Duma Joshua Khumalo and Francis Don Mokgesi were sentenced to death for the murder of the deputy mayor of Lekoa, Mr Kuzwayo Jacob Dlamini He was disarmed, stoned and burned after his house and car were set alight at Sharpeville on September 4, 1984

The six lost appeals in December against the death sentences they received for the murder — Sapa

cult position they occupy in SA society Their problem is not with capitalism but with apartheid

Two problems arise. there is still residual sympathy, even in a group such as this, for the "capitalism equals apartheid" school of thought, so all discussion eventually returns to politics.

The second is that the BMF realises it is essentially powerless to deal with its central political frustration It is easier, as some delegates suggested, to talk about corporate culture It was these difficulties which accounted for the "lumping together" These problems do not obscure the massive challenge which faces business leaders in SA to bring blacks in from the margins, if not in a political sense, then at least in an economic one A pity so few of them were there to listen to the feelings of this important constituency ■

THE LAW

A day in court

A recent judgment by Mr Justice Didcott has caused ripples in legal circles — rekindling debate on the admitted inadequacies of the legal profession and its responsibilities to those who cannot afford counsel

In a judgment handed down following the automatic Supreme Court review of a magistrate's decision, Justice Didcott described as "palpably and grossly unfair" the trial of two men whose lack of representation had put them at a disadvantage against expert witnesses called by the State. He set their sentences aside and established a rule for Natal whereby magistrates would be bound to inquire of accused persons whether they wished to be represented

According to Natal University law faculty dean Professor David McQuoid-Mason, more than 100 000 people a year go to jail in SA without having been represented at their trials. That is some 80% of all cases coming before the courts

However, merely to inquire whether legal representation is required will not go far towards solving the problem. Very few of those who are unrepresented are likely to be able to pay the costs of litigation, and this is the issue which a number of legal bodies are currently attempting to address

According to a spokesman for the SA Law Society, the root of the problem lies in a "critical" manpower shortage "In the case of capital offences, the State is able to provide a few thousand pro deo advocates for defence, but this is just a drop in the ocean," he says.

The Law Society is looking at the feasibility of establishing a "public defender system," manned by lawyers doing their national service, together with articled clerks, to provide essential legal skills

Suggestions that attorneys be allowed to alleviate the burden of advocates in the Supreme Court, or that less qualified lawyers appear in magistrates' courts, have evoked concern in the legal profession over a possible lowering of standards

Lawyers for Human Rights (LHR) recently launched two projects which may eventually go some way towards solving the shortage of available representation Project Regional Organisers is under way at the moment, with centres in Pretoria, Johannesburg, Port Elizabeth and Durban Para-legal field workers at the centres are responsible for referring applicants to existing community service structures, such as the Small Claims Court or university legal aid clinics

Project Pro Bono Legal Services aims at providing representation through the formal profession LHR is approaching lawyers to volunteer a number of days a year when they will render free legal service

According to national director Brian Currin, LHR intends setting up a litigation trust fund to cover the expense of cases which drag on beyond an allotted number of free days, and is hoping for private-sector contribution to make this possible

In the last year, the State has contributed R9,5m to legal aid in SA with R12m still to pay for the same period Although the contribution is set to rise to a projected R22m by 1993, the amount will still be only a fraction of what is really needed ■

Date set for Sharpeville Six

Cpress 252

ARGUMENT on the petition by the Sharpeville Six for leave to appeal against the dismissal of their application to re-open their trial will be heard by five judges of the Appeal Court in Bloemfontein on September 7.

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The six lost appeals in December against the death sentences they received for the murder. – Sapa

Sharpeville Six join ranks of unquotables

12/8/88 (252)

DIANNA GAMES

THE Sharpeville Six — on death row under a stay of execution — have been banned in terms of a section of the Internal Security Act which requires that a list of names should be kept of people convicted of certain offences under the Act.

This was confirmed by a Justice Ministry spokesman who said yesterday the sections which required listing included Section 54, under which the six were convicted.

The names of the six, convicted in December 1985, appeared on the new consolidated list of banned people, who may not be quoted by the media, was released by the Justice Ministry in Pretoria this week.

Sapa-Reuter reports that the list includes, among 417 people named, several black guerrilla leaders, a dead communist lawyer and a white woman jailed for treason.

Chris Hani, new ANC commander, and senior colleagues Steve Tshwete and Victor Moche, were listed

Among banned dead people are Bram Fischer, the lawyer who helped to defend Mandela and was once a leader of the outlawed Communist Party, and Ruth First, a writer killed by a letter bomb sent to her home in Mozambique.

SA's Justice Minister can ban at his discretion anyone he considers a threat to state security or public safety or who, he believes, is an advocate of communism

B/Day

Leaflets will inform public on legal rights

(252) Staff Reporter CAPE TIMES 15/1/88

If there are things you always wanted to know about being arrested but were afraid to ask, a leaflet issued by the Association of Law Societies could provide you with the necessary information.

The first three leaflets, aimed at bringing the law closer to the public, are entitled: "Arrested — what now?", "How to become an attorney" and "Conveyancing". Other areas to be covered include buying and selling a house, time-sharing and sectional title, marriage and family law.

The pamphlet covers such topics as "The policeman and you", "Right to legal assistance" and "How bail money is paid".

The pamphlets are written in question-and-answer format, are free of charge and are obtainable from attorneys' offices throughout the country, or by sending a stamped, self-addressed envelope to the Director General, Association of Law Societies, P O Box 4052, Arcadia, 0007.

(51)

Cape Times 16/8/88

Killer cops may not appeal

(252)

BLOEMFONTEIN — The Appeal Court has refused the former head of the East Rand Murder and Robbery Squad, Hendrik Johannes la Grange, leave to appeal against his conviction and double death sentence for two murders and 10-year jail sentence for attempted murder

The court also refused Robert Edmundt van der Merwe, of Klipriver, who was a sergeant attached to the Brixton Murder and Robbery Squad, leave to appeal against his similar convictions and sentences

They were convicted of murdering Mr Bennie Alex Ogle at Ennerdale on September 28, 1987, and Mr Peter Godfrey Pillay at Riverlea on October 4, 1987. The attempted murder was on Mr Ernest Molokoane at Mapeta, Soweto, on September 29, 1987

The two men were convicted by Mr Acting Justice Irving Steyn in the Witwatersrand Local Supreme Court on March 30, 1988, and sentenced the next day. — Sapa

Bid to stop executions

19/8/88 (20)

By Therese Anders and Craig Kotze

A renewed campaign has been launched to save the lives of two former detectives sentenced to death for murder

Following an Appeal Court refusal yesterday to grant Jack la Grange, former head of the East Rand Murder and Robbery Squad, and Robert van der Merwe leave to appeal against double murder convictions and death sentences, appeals are to be made to the State President

And as Mrs Tessa la Grange vowed today to "fight to my last breath" to stop her husband being hanged, a "Save la Grange and van der Merwe" committee was formed by a Witbank man, who claims 85 000 signatures have been collected calling for the men to be reprieved

The organiser, Mr Mathiam Hoffman, said a telegram had already been sent to the State President asking for an urgent meeting about the matter

Mrs la Grange said "I won't stop fighting for my husband's life until I am six feet under Oh yes, we are going to fight this and our attitude is extremely positive"

She had visited her husband on Pretoria Central Prison's Death Row after the court's decision

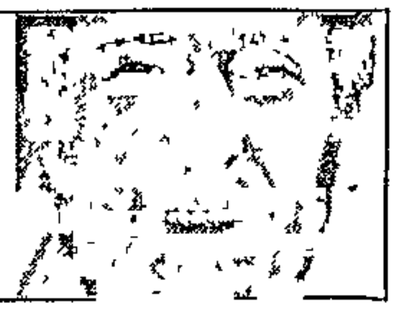
"He was extremely upset and embittered," she said

Rights and wrongs of a Bill of Rights

Times 252 2/10/88

Dries van Heerden

looks at an important debate on fundamental rights in South Africa



A DEBATE that will touch the heart of the South African legal system will begin in earnest soon when the possible introduction of a Bill of Rights comes under scrutiny.

Central to the debate will be the emphasis on the protection of individual rights versus the concept of racially defined group rights.

The respected Law Commission under the chairmanship of Mr Justice G Viljoen recently fuelled the debate, openly declaring itself in favour of such a Bill

A working group led by Mr Justice P J J Olivier has already submitted a preliminary report

The fact that the Government commissioned the report in spite of its political insistence on the "protection of minorities" and group rights, racially defined through the Population Registration Act, will make the debate an interesting one

Moreover, the very existence of a Bill of Rights implies that a government should accept outside discipline over executive action

Supreme

Such a Bill should be the supreme law of the land It should take precedence over every other law and executive action Everything, including parliamentary powers, should be subordinate to such a Bill

For this a government needs not only to be inherently democratic but also sufficiently self-confident to accept an objective observer to monitor its uses and abuses of power.

Whether the Government would subject itself willingly to such constraints is hard to imagine in the light of its history

Professor Johan Kruger, of Potchefstroom University's law faculty, argues that even parliamentary sovereignty in South Africa has already been seriously eroded

"Nowadays the Government rules through executive decree," he says "They don't even bother to go to Parliament if they can rather promulgate regulations to suit their purposes"

The main question to be resolved is whether the Government is prepared to abandon its insistence on groups being racially defined

Some see its harping on the "protection of minorities" as a thinly disguised call for the "protection of white privileges" and an effort to ensure that political control stays firmly in white hands

A Bill of Rights, acceptable to the majority of South Africans would obviously not tolerate such a veto power But as Professor Lourens du Plessis, of the Stellenbosch law faculty, has stated "In the protection of individual rights lies the salvation of (freely associated) groups"

In the final analysis a Bill is not a political manifesto As Mr Justice Didcott recently pointed out, it is a protective device — "a shield rather than a sword"

A prerequisite for the introduction of a Bill is the existence of a strong and independent judiciary

Professor Kruger argues for a system of judicial review with the courts empowered to strike down laws and executive actions or refer them back to the lawmakers if it is deemed incompatible with the provisions of the Bill

This would place a considerable burden on the integrity and independence of the judiciary Appointments to the Bench should be made solely on professional merits and politics should play no part — a vice that should specifically be guarded against in the local context where judges are appointed by the executive

Another problem that is sure to be hotly debated is the notion in some circles that a Bill of Rights will be an instant cure-all, a magic wand, a swift panacea for all South Africa's ills

Those who see the ANC's Freedom Charter as the model for a Bill of Rights will only be convinced with difficulty that it is not possible for such a Bill to enforce certain key provisions of the Charter

Guarantee

How, for instance can you enforce through a Bill the lowering of rent and prices, the availability of food, the building of suburbs "where all shall have transport, roads, lighting, playing fields, creches and social centres" — all key provisions of the Charter

Justice Didcott points out that one should not expect from a Bill of Rights goods it cannot deliver A number of issues raised in the Freedom Charter should rather be part of the programme of political groupings

The contribution of a Bill of Rights is rather to guarantee basic rights such as freedom of the Press, speech, association and assembly and thus ensure that political parties can implement such programmes aimed at addressing the needs of the population

One of the most contentious issues that will have to be resolved in the present debate is the question of "affirmative action"

How far should a Bill of Rights go to actually redress the wrongs of the past and to favour those who have been dispossessed against those who benefited from the system?

Professor du Plessis feels strongly about this "If we get a Bill that does not favour the dispossessed more than the privileged, we should go back to the drawing board"

And Pretoria lawyer Mr Dikgang Moseneke argues that a Bill should aim at the "total restructuring of society"

Alarming

Most jurists agree that there is an alarming and growing lack of confidence in legal institutions prevalent in the black community Law is regarded as but another instrument of government control, there to be manipulated by the whims of the rulers

Mr Moseneke says there is considerable cynicism among blacks about the sudden upsurge of interest in a Bill in white political and legal circles

Can it be they believe they are seeing the writing on the wall for white power and are now looking towards a Bill to protect their interests and privileges, he wonders?

Mr Justice Leon has argued forcefully that a Bill should not be perceived as simply another way in which the white minority can maintain power by ostensibly legitimate constitutional means

Neither should minority privileges be protected through a complicated system of checks and balances that will leave the majority no room for manoeuvre

For this reason Professor John Dugard argues that a Bill of Rights can only succeed if the black community sees it as a change of heart by whites towards human rights and not as an attempt to protect an endangered species

Moreover, most jurists agree that a Bill of Rights should be the result of, and not the precursor to a complete political overhaul and re-orientation in the country

"For the Government to impose a Bill unilaterally or try to graft it on to the present political dispensation will deliver the kiss of death to the whole concept This will plunge the whole legal system into a crisis of legitimacy," warns Professor Kruger

"A Bill in present political circumstances can be likened to efforts to make a racing car go faster by spray-painting it rather than by tuning the engine," he says

Lofty

Mr Moseneke considers present talk about a Bill of Rights as "premature"

"Such a Bill can only exist in the post-apartheid society No matter what lofty ideals are envisaged in the Bill, if it does not spring from a truly democratic base it would be ineffective and in the long run counter-productive to the whole concept," he warns

This includes compelete equality before the law, full political rights for all citizens and freedom of movement, assembly and speech

Professor Kruger argues that the only way in which a Bill of Rights can gain legitimacy would be if it is the result of a process of political negotiation involving all South Africans — "including the warring factions"

The debate on the merits and demerits of a Bill of Rights is expected to continue for some time The report of the Law Commission will definitely add weight and substance to this debate

Vigorous

Even if the introduction of a Bill can now be considered premature, argues Mr Justice Didcott, at least the debate should be vigorous

This is the time for lawyers and politicians to give serious thought to the subject so that when the time arrives, the issue will be much clearer in focus "A Bill of Rights will not, after all, spring into existence on its own"

Rights and wrongs of a Bill of Rights

Stirling 252 2/8/88

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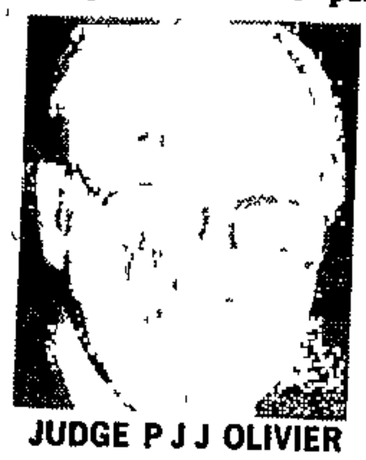
REPORT ON A BILL OF RIGHTS WILL BE OUT BY DECEMBER

By DRIES van HEERDEN

THE long-awaited report on a Bill of Rights, drawn up by the Law Commission, is expected soon.

The project's leader, Mr Justice P J J Olivier, said the 400-page document was discussed by the commission last month

The commission decided the report would be published as a working paper for general comment by December After the comments had been digested, the final report would be submitted to the Minister of Justice, Mr Kobie Coetsee



JUDGE P J J OLIVIER

The report is the result of a two-year study conducted by Judge Olivier and four full-time researchers.

In April 1986, Mr Coetsee asked the commission to conduct an investigation into the protection of group rights in the present constitutional dispensation and to make recommendations about ways to enhance group and individual rights.

Judge Olivier's investigation took him across the country where he spoke to more than 100 interested parties of all views and persuasions.

He received about 300 written proposals from individuals, political parties and other interested groups

He said. "Our aim was to get as broad a spectrum of opinion as possible — from the far left to the extreme right — and I am satisfied we succeeded in doing so."

Last November, the commission started to draw up the report which resulted in a mammoth volume of 1 450 pages This has now been condensed to a 400-page report.

Judge Olivier said he made an intensive study of the history of human rights in various countries. He compared 140 different Bills of Rights including the home-grown versions of Namibia, Bophuthatswana, KwaNatal and the Freedom Charter.

● See Page 22

S Times 21/8/88 (252)

(d) 31 May 1988,

(2) (a) and (b) an extension to the Rietfontein exchange is envisaged, but at this stage it is unfortunately not yet possible to indicate when it will be undertaken or what the cost involved will be The existing exchange still has sufficient reserve capacity to meet requirements for the next 18 months to 2 years

Note

The waiting applicants referred to in 1(c) will be provided with telephone service before the end of this year after completion of small cable works

Pretoria suburbs offences

1356 Mr A E NOTHNAGEL asked the Minister of Law and Order †

(a) How many cases of murder, robbery, rape, house-breaking, theft and assault, respectively, (i) are estimated to have occurred in the Pretoria suburbs of (aa) Villieria, (b) Riviera, (cc) Rietondale, (dd) Rietfontein and (ee) Wonderboom South, and (ii) were reported at police stations in these suburbs, in 1987 and (b) (i) how many cases in respect of each of these categories of offences (aa) have been solved and (bb) are still being investigated and (ii) in respect of what date is this information furnished?

The MINISTER OF LAW AND ORDER

(a) (i) (aa) to (ee) It is not possible to furnish an estimated figure of the number of cases which occurred

(ii) The number of cases reported at police stations is as follows

	Murder	Robbery	Rape	House-breaking	Theft	Assault
(aa)	5	55	5	482	895	278
(bb)	–	3	3	40	132	5
(cc)	–	2	2	84	104	4
(dd)	–	13	1	140	621	14
(ee)	–	7	1	73	240	5
(b) (i) (aa) Number of cases solved						
(aa)	4	17	2	83	113	57
(bb)	–	1	1	3	28	2
(cc)	–	1	1	9	20	2
(dd)	–	3	1	10	157	10
(ee)	–	—	–	7	31	2
(bb) Number of cases still being investigated						
(aa)	1	38	3	399	782	221
(bb)	–	2	2	37	104	3
(cc)	–	1	1	75	84	2
(dd)	–	10	–	130	464	4
(ee)	–	7	1	66	209	3

(ii) 30 June 1988

RSA immigration

1358 Mr A GERBER asked the Minister of Home Affairs †

(a) How many (i) Whites, (ii) Coloureds, (iii) Indians and (iv) Blacks were permitted to immigrate to the Republic during the latest specified period of 12 months for which information is available and (b) what were their countries of origin, in each case?

The MINISTER OF HOME AFFAIRS

(a) and (b) The hon member is referred to my reply in this House to written Question No 1328 of 1988

Publication committees remarks

1359 Mr A GERBER asked the Minister of Home Affairs †

(a) How many members of each population group are serving on publication committees at present and (b) in respect of what date is this information furnished?

The MINISTER OF HOME AFFAIRS

(a)	Whites	123
	Indians	27
	Coloureds	8
	Blacks	8

(b) 30 June 1988

Legal Aid Board: financial assistance

1362 Mr C J DERBY-LEWIS asked the Minister of Justice

(1) Whether the Legal Aid Board receives financial assistance from his Department, if so, on what basis,

(2) whether there are any financial limits with regard to such assistance in individual cases, if so, what are these limits,

(3) whether his Department exercises any control over the attorneys handling such cases, if not, why not, if so, what control?

The MINISTER OF JUSTICE

(1) and (2) The funds of the Legal Aid Board consist of moneys appropriated by Parliament and moneys received from any other source In this regard the Honourable Member's attention is drawn to Chapter 5 of the report of the Legal Aid Board for the period 1 April 1986–31 March 1987 which was Tabled in Parliament on 29 March 1988

(3) No The Legal Aid Board is an autonomous statutory institution which exercises control over the legal aid scheme itself

Diaz/Huguenot/Great Trek festivals

1364 Mr K M ANDREW asked the Minister for Administration and Privatisation

(1) Whether his Department has contributed or intends to contribute to the (a) Dias, (b) Huguenot and/or (c) Great Trek festivals, if so (i) in what way, (ii) when, (iii) why, and (iv) at what cost, in each case,

(2) whether any outside organizations or agencies were allocated funds by his Department in respect of these festivals, if so, (a) which organizations or agencies and (b) (i) what amount was allocated, and (ii) why, in each case?

The MINISTER FOR ADMINISTRATION AND PRIVATISATION

(1) (a), (b) and (c) No

(i), (ii), (iii) and (iv) Fall away

(2) No

(a), (b) (i) and (ii) Fall away

Diaz, Huguenot and Great Trek festivals

1366 Mr K M ANDREW asked the Minister of Communications

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The MINISTER OF COMMUNICATIONS

(1) (a) Yes,

(i) the provision to the National Festival Committee (Diaz 88) of a 10 × 50 switchboard with 5 junction lines and 25 indoor extensions as well as 14 exchange connections at Mossel Bay,

(ii) during the period 29 January to 6 February 1988,

(iii) upon request of the National Festival Committee (Diaz 88)

(iv) R4 470,50 This represents a rental of R635,50 and a service charge of R3 835 The Committee was absolved from paying this cost by virtue of the powers vested in the Postmaster General by section 2B(1)(k) of the Post Office Act 1958, (Act 44 of

the past 10 years, if so, (a) what aspects in respect of each such department and organizational component and (b) when in each case,

(2) whether such privatisation has resulted in financial gain to the State, if so, what steps were taken in respect of the funds so gained?

The MINISTER FOR ADMINISTRATION AND PRIVATISATIONL

(1) Privatisation in the form of farming out of work has been taking place for many years over a wide spectrum of government functions Complete details are not available Since the Government's privatisation program was launched during December 1985, the following activities have been privatised in full

(a) (i) The grading of butter and cheese by the Department of Agricultural Economics and Marketing was ceased and is at present being undertaken by the dairy industry

(ii) The regulating of cotton standards by the Department of Agricultural Economics and Marketing was handed over to the Cotton Board

(iii) The Department of Transport entered into agreements with two consortiums for the construction and maintenance of certain roads for a period of 25 years and to run these as toll roads

(b) (i) 1 January 1987

(ii) 1 November 1987

(iii) 22 and 25 March 1988

(2) As no assets have been alienated, there was no financial gain However, there was a reduction in operational costs and consequently a saving in expenditure to the State

Debt: long-term/short-term

1116 Mr C J DERBY-LEWIS asked the Minister of Communications

(1) What was the total long-term and/or short-term debt of his Department as at the end of the (a) (i) 1982-83 and (ii) 1984-85 financial years and (b) latest specified financial year for which figures are available,

(2) How much of this debt in each such financial year was attributable to foreign exchange losses?

The MINISTER OF COMMUNICATIONS

(1) The total long-term and short-term debt of the Department at book value at the end of the financial years indicated was as follows

		Long-term debt (Foreign and Domestic loans)	Short-term debt (Savings Bank Investments)
(a)	(i) 1982/83	R 756 444 497	R1 781 994 617
	(ii) 1984/85	R1 908 067 849	R2 129 003 713
(b)	1986/87	R2 971 527 041	R3 442 895 403

(2) None, since foreign exchange losses in the financial years in question were not financed from borrowed funds but from revenue and accounted for as financing costs

Public Service: salary levels

1131 Dr P W A MULDER asked the Minister for Administration and Privatisation †

(1) (a) (i) How many persons in the Public Service, including all statutory institutions which directly or indirectly follow the salary guidelines of the Public Service, are remunerated at the salary level of (aa) ministers and (bb) deputy ministers and (ii) in respect of what date is this information furnished and (b) what was the total expenditure on salaries and fringe benefits of persons remunerated at each of these two levels in the 1987-88 financial year,

(2) whether he will furnish particulars of the persons, excluding present ministers and deputy ministers, who are at present remunerated at the said two levels, if not, why not, if so, (a) what are their names and (b) what posts are occupied by each of them?

The MINISTER FOR ADMINISTRATION AND PRIVATISATION

(1) (a) (i) (aa) and (bb) None

(ii) 1 May 1988

(b) Falls away

(2) (a) and (b) Fall away

Public relationsadvertising: consultantsagencies

1132 Dr P W A MULDER asked the Minister of Home Affairs †

Whether any division or directorate of his Department made use of external (a) public relations consultants, (b) public relations agencies, (c) advertising consultants and/or (d) advertising agencies in the 1987-88 financial year, if so, (i) for what projects, (ii) what total amount was spent on each project, (iii) what consultants and/or agencies were involved in each project and (iv) what procedure was followed in allocating these projects to agencies and/or consultants?

The MINISTER OF HOME AFFAIRS

(a) to (d) No

Regional magistrates: change to conditions of service

1178 Mr C J DERBY-LEWIS asked the Minister of Justice

(1) Whether his Department has permitted a change to be effected to the conditions of service of regional magistrates, if so, (a) what change, (b) when and (c) why,

(2) whether any (a) (i) complaints and/or (ii) charges have been laid, and/or (b) other steps have been taken, against his Department for permitting this change to be effected, if so, what are the relevant details,

(3) whether he has at any stage given an undertaking to the regional magistrates in question, if so, what undertaking,

(4) whether he has honoured this undertaking, if not, why not?

The MINISTER OF JUSTICE

(1) to (4) It is the function of the Commission for Administration to make recommendations or give directions concerning the conditions of service of regional magistrates There is however (and always has been) an ongoing exchange of communication between the Department, the officials for whom it is responsible and the Commission on conditions of service The Department is not in a position to permit or not to permit changes in conditions of service It is not possible to identify any issues to which the Honourable Member may be referring If he can be more specific in his question, I will attempt to give him the information he requires

Tugela Ferry police station: convictions of offences

1186 Mr P C CRONJE asked the Minister of Justice †

(1) How many convictions were obtained in each of the latest specified five calendar years for which information is available, in respect of persons charged at the Tugela Ferry police station with (a) murder, (b) culpable homicide and (c) assault with intent to do grievous bodily harm,

(2) (a) how many persons convicted of offences in each of these three categories, received heavier sentences than five years' imprisonment and (b) what were the sentences in each such case?

The MINISTER OF JUSTICE

The required information is not readily available To obtain the information all court records pertaining to the crimes concerned will have to be examined

KTC area: progress in upgrading

1214 Mr K M ANDREW asked the Minister of Constitutional Development and Planning

Whether, with reference to his reply to Question No 120 on 23 February 1987, any further progress has been made in the upgrading of the KTC area, if not why not, if so, what aspects of this upgrading (a) has been and (b) remained to be completed as at the latest specified date for which information is available?

US Senator to plead for Six at meeting with Pik today

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CHRISTOPHER TUCHER

US SENATOR Paul Simon meets Foreign Minister Pik Botha today to urge clemency for the "Sharpeville Six", their attorney Prakash Diar said last night.

B/Day

The Illinois Senator has been in the forefront of the international campaign for clemency for the Six, condemned to death after they were found to have acted with common purpose in the murder of a township official.

25/8/88

Simon, chairman of the Senate subcommittee on Africa and influential proponent of anti-apartheid legislation, is on a four-day fact-finding mission in SA.

He met Diar yesterday to be briefed on the "Sharpeville Six" situation before touring Soweto, where he condemned conditions in squatter camps and single-quarter hostels.

In Soweto the Senator called on Albertina Sisulu, sending thanks to her husband, ANC leader Walter Sisulu, for his "leadership".

He also met Nactu secretary Phiroshaw Camay.

Later today, Simon flies to Cape Town to meet PFP leaders Zach de Beer, Colin Eglin and Helen Suzman. He will also see Alex Boraine of Idasa.

quietly called in to "kosher" all the kitchen utensils.

rach army, also makes them the most loyal of subjects in Arab states - *GEMINI NEWS*

Spotlight on Bill of Rights

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A SOUTH African Bill of Rights is to be the topic at a major forum discussion being hosted by the Civil Rights League and the Community Law Centre of the University of the Western Cape.

The discussion, which is being held at UWC this Saturday, is to be addressed by a line-up of prominent speakers.

Among them are advocate Dullah Omar, Professor Dennis Davis, Professor Laurie Ackermann, Maulana Faried Esack, Professor Andre du Toit, Professor Lourens du Plessis and Mr Keith Gottschalk.

The speakers will deal with the history of human rights, various charters of rights, the current denial and abuse of rights, women's and children's rights, capital punishment, and ways of protecting rights enshrined in a future South African Bill of Rights.

Several Charters, including the Universal Declaration, the Freedom Charter, the Banjul Charter (African) of Human and People's Rights, and the Declaration of the Basic Duties of Asean Peoples and Governments, will be discussed.

The 40th anniversary of the Universal Declaration of Human Rights is being celebrated this year — an "appropriate" time to encourage discussion on a South African Bill of Rights, said Forum organisor Mrs Dot Cleminshaw

Sowetan 25/8-1/9/88

Department of Justice moves to curb exodus

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Govt's lawyers will get pay hikes earlier

B/Day 26/8/88

Business Day Reporter

GOVERNMENT had decided to advance salary increases to September for legal staff in the Department of Justice — to stop the loss of experienced lawyers which had reached unacceptable levels, Justice Minister Kobie Coetsee said yesterday.

The increases, which were to have come into effect on November 1, will now be implemented on September 1

Coetsee said the number of resignations by August 1 showed that the salary increases could not wait until November 1.

"During the past few years, more and more experienced legal staff resigned from the Department of Justice to accept positions outside the public service"

□ GERALD REILLY reports from Business Day's Pretoria bureau that Public Servants' Association (PSA) GM Hans Olivier said resignations from key areas of the public service had reached a point where immediate and drastic action was called for from government.

A Justice Department official said 178 officials with law degrees resigned in the first seven months of this year, 179 last year, 125 in 1986 and 68 in 1985

Olivier said the PSA had warned government repeatedly that a critical staff situation was being created because of resignations.

"What has happened in the Department of Justice is exactly what is happening in other branches of the service."

A break-down point in some services would soon be reached unless government acted to stem the flood of discontented workers.

Olivier said "What is most disturbing is even if government grants substantial pay hikes, most of those who have left the service are lost to the service for good

"We warned months ago that resignations were crippling some services and now it seems the panic button has been pressed."

State lawyers get early pay rise

By Claire Robertson, Pretoria Bureau

The Department of Justice has brought forward by two months a planned salary increase for public service legal staff in an effort to stem the flood of resignations by lawyers

The Minister of Justice, Mr Kobie Coetsee, announced yesterday that a pay increase set for November 1 would now come into effect next week on September 1

The increase is part of the R280 million set aside by the Government this year for increases in those branches of the public service hardest hit by years of low or no increases

The amount of the increase has not yet been decided, a spokesman for the department said yesterday

In the first six months of this year 179 lawyers resigned from the department, 10 resignations short of the total for last year

August figures are not yet available

The general manager of the Public Services Association, Mr Hans Olivier, welcomed the move, but said it was bad news that the authorities waited until there were unnacceptable levels of resignations before acting

W/Mail

Courts face a Catch 22, says judge

(252)

26/8 - 1/9/88

By ADRIAN HADLAND

A RAND Supreme Court judge yesterday said the Emergency Regulations were acting as a "super-censor over the courts" — a phenomenon "that is very disturbing"

Justice G Gordon described the relationship between the courts and the Emergency Regulations as "almost a Catch 22 situation

"This kind of legislation excludes the courts from things no court is happy to be excluded from I am hit by the legislation."

He was hearing Learn and Teach Publications' urgent application to reverse the seizure of its booklet *The Historic Speech of Nelson Rolihlahla Mandela at the Rivonia Trial.*

On July 20 this year 14 300 copies of the publication were seized by security police in terms of the Media Emergency Regulations. At the time, the South African Police's Public Relations division said the speech was unbalanced, incorrect and placed the South African legal system in a bad light.

In an affidavit, *Learn and Teach* editor Marc Suttner said it was at the request of readers that Mandela's statement, read out during his trial in 1964, was printed and published

As extracts from the speech had been printed in a number of publications during the State of Emergency — including *The Star, The Sowetan, Tribute* magazine and the Bureau for Information's pamphlet *Talking with the ANC* — Suttner believed the speech had "never been banned or in any manner restricted from publication or circulation".

Justice Gordon commented that the *Learn and Teach* booklet was "a quotation from court proceedings, proceedings that were held in the open. It is disturbing to find these proceedings are now capable of being restricted. That curtailment in itself is a very drastic one.

Counsel for the Witwatersrand Divisional Commissioner of the SAP, Brigadier Ernest Schnetler, said the onus was on the applicant to prove the commissioner had acted in bad faith, with ulterior motives or had not properly arrived at his decision.

1 100 people hanged in SA over last ten years

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CPress
28/8/88

IN February, when the Black Sash began planning its National Conference focusing on capital punishment, 14 people had already been executed in South Africa in the first seven weeks of 988

By May, when we were working on the National Conference issue of *SASH*, 50 people had reportedly gone to the gallows and 274 were waiting their turn in Death Row

By the time the magazine went to press in June, 1 people had been hanged – in circumstances that a former Minister of Justice considered "too gruesome" to reveal in answer to a parliamentary question

Last year, 164 people were executed In the past years 1 100 people have gone to the gallows

The fact that South African courts impose the death sentence more than in any other country that lays claim to a "Western" judicial system, has long been of grave concern to the Black Sash

Perhaps this was partially due to the fact that there has been greater public concern about the death penalty than ever before

Individuals and organisations that have not paid much attention to the issue of capital punishment in the past are doing so now – mainly because 53 people on Death Row at the end of 1987 had been sentenced for actions arising directly out of the political conflict in this country

This has given added impetus to the Black Sash's long-standing opposition to capital punishment

It has been more important than ever for us to raise our voices in this debate – not least to make the point that our opposition to the death penalty applies in all circumstances, not only to sentences arising out of "politically motivated" crimes

The Black Sash opposes the death sentence because we believe the deliberate, planned killing of any human being is indefensible

It has a brutalising effect on society as a whole, it debases those who carry out the execution, those who must witness it and all those who are members of societies which authorise it, there is no satisfactory evidence that it is effective as a deterrent, and there is always the possibility, however small, of

The death sentence is receiving unprecedented attention from the general public. According to the Black Sash, this is because more and more people are being sentenced to hang as a direct result of the political turmoil in South Africa. The Black Sash believes "the deliberate, planned killing of any human being is indefensible."

judicial error which in the case of the death sentence is irreversible.

In this year of our human rights campaign it is particularly appropriate to reassert that the right to life is the ultimate human right – a right that no other person should be legally empowered to remove

Experience has shown that society *can* effectively protect itself from recurrent violent crimes – by methods that do not include killing the criminal

Our focus on capital punishment has a practical and achievable goal it aims to build up public pressure on the government to appoint a judicial commission of inquiry into the death penalty and declare a moratorium on all hangings until the commission has released its findings

To do this we have to ensure that the issue of capital punishment becomes a priority in South Africa's political debate – not as a point of party political conflict, but to encourage people across the spectrum to consider the issues at stake

We may find powerful allies on this issue within the National Party, and who knows, maybe even to its right We need to involve everyone in turning the spotlight on one of the darkest and most hidden facets of our society

Very few people know anything about what capital punishment means in practise, which is probably the major reason why so many people still defend and condone it

Years of intellectual debate and moral argument have done little to shake the prevailing view – that the death penalty has its place in a society's legal system as the ultimate penalty for those who calculatedly and deliberately take the lives of others

Even the fact that the death penalty is imposed for a far wider range of crimes in South Africa has made little impact Hangings in our society have become so commonplace that they rarely impinge on the public consciousness

People begin to think differently only when they know what the death penalty means in practise It is therefore central to our campaign to take ourselves and others beyond the analytical debate We need to break throught the clinical neatness of the term "capital punishment" and face what it means to go through the process, from the moment the judge informs a convicted criminal that he will hang by the neck until he is dead

This is what we know to date

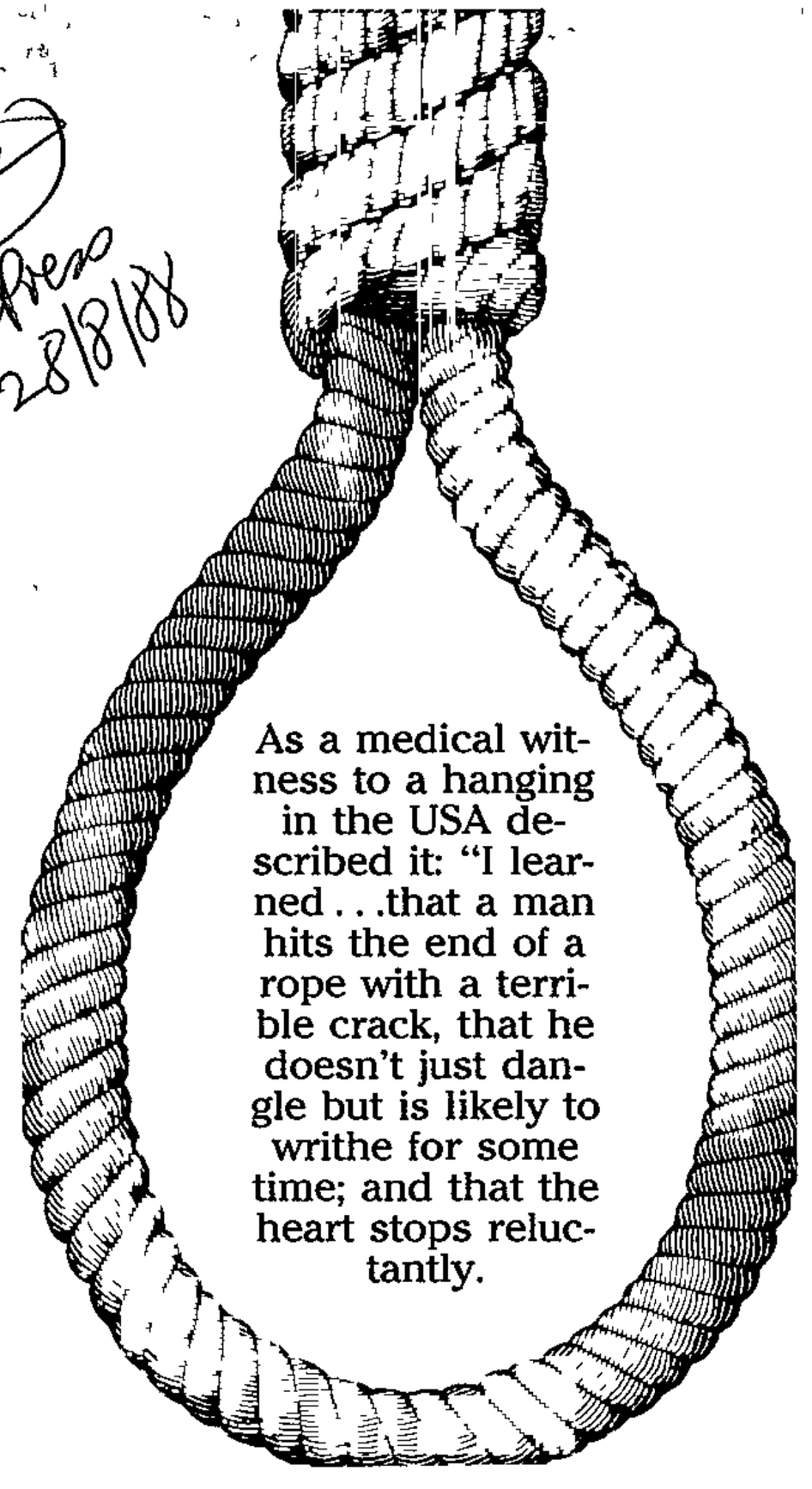
● After people are condemned to death they are put into cells on Death Row where they will wait for weeks, months and sometimes years until the day of their execution

● Once all appeals for clemency have failed and a date for execution has been set, the condemned are given seven days' notice and taken to the "waiting cells"

● Some people on Death Row receive no visits whatsoever They do not know whether any appeal has been made or if there has been any plea for clemency They seem to know nothing more from the time they are sentenced to the day they get the notice that they are to be hanged This ignorance may sometimes be due to the fact that many condemned prisoners have pro deo counsel, whose interest in the case is decidedly limited

● One of the cases that came to our attention early in June was that of a 60 year-old man who was sentenced to death in 1986 for a crime committed in 1985 He had no idea that anything could be done on his behalf At the last moment a new lawyer was briefed to take over the case and an 11th-hour application was lodged in the Supreme Court for a stay of execution The application succeeded – a day before the man was due to hang

● A condemned prisoner usually receives notice of his execution date seven days in advance There is no



As a medical witness to a hanging in the USA described it: "I learned . . .that a man hits the end of a rope with a terrible crack, that he doesn't just dangle but is likely to writhe for some time; and that the heart stops reluctantly.

greater terror that can be inflicted on a person than knowing in advance the exact moment of one's death

● A chilling detail that emerged from the case of the "Sharpeville Six" was that two days before their due date of execution they were taken to be weighed and measured They understood that they were being measured for their coffins but, as we recall from English literature, hanging necessitates the executioner knowing the height and weight of a person in order to fix the noose properly On the same day their clothes were given to their relatives

● The authorities notify prisoners' families of the execution date and for those who live away from the execution centre, a third-class rail ticket is enclosed with the official notice Gallows are situated at Pretoria Central, Rooigrond in Bophuthatswana, Middledrift in Ciskei, Wellington in Transkei and Venda Central

● For many prisoners, the final visits are the first time they will have seen their relatives since sentencing No contact visits are permitted, not even for families – a pane of glass and bars separate relatives and Death Row prisoners during the last meetings, which are monitored by a warden

● In South Africa, seven persons can be hanged simultaneously Few other details are known of the actual hanging, although some details have leaked out In 1981 it was reported in the Press that four men had resisted when warders entered the death cell to escort them to the gallows and that teargas had to be used to "calm down the prisoners"

● The names of those who are to die are not available officially until after the execution has taken place, when the list is posted up in the magistrate's court in Pretoria The only way one can know is if relatives or friends come to a church or other organisation for help, or if the lawyers make it known

We were horrified that during all the relief about the stay of execution for the "Sharpeville Six", we had not known that a seventh man was hanged alone, and that no-one knew until it was published the next day

We know from medical evidence that death by hanging is not always instantaneous or painless As a medical witness to a hanging in Iowa State Penitentiary described it "I learnt that a man hits the end of a rope with a terrible crack, that he doesn't just dangle but is likely to writhe for some time, and that the heart stops reluctantly As I listened for an interminable 13 minutes to the dying heart of a victim, there was time for me to ask a host of troublesome questions "

There are still many unanswered questions how long do condemned people wait from the time they arrive at the gallows until they are hanged? Are they sedated? Is each condemned person accompanied by someone like a doctor or minister, or do they go to their deaths alone?

It is precisely these sorts of "troublesome questions" that we are committed to ask, encouraging more and more people to ask them too as we take forward our campaign against capital punishment

We need to ensure that no Minister of Justice can ever use the argument a former incumbent used in 1969 – to dismiss Helen Suzman's call for a Judicial Commission of Inquiry into the desirability or otherwise of abolishing capital punishment – that there was negligible public demand for abolition

It is part of our role to help create that demand

Times 28/8/88

Lawyers want to serve in court, not in uniform

By HAMISH McINDOE

THE Government is being urged by the legal profession to allow law graduates to become public defenders in lieu of military service

New hope for SA's undefended accused — estimated to number at least half of the 100 000 people jailed yearly without the benefit of legal defence — was confirmed this week by the Association of Law Societies (ALS) in Pretoria

Said Mr André Van Vuuren, the association's director general "We've had talks with the SADF about using law graduates doing military service as public defenders

"The response has been very favourable"

The association will shortly make similar representations to the Department of Justice

Meanwhile, judges and lawyers are viewing with growing concern the high number of accused being tried without legal representation because of the shortage of lawyers and lack of legal aid funds.

The association's efforts come at a time of extreme government sensitivity over the now silenced End Conscription Campaign's efforts to have alternative forms of national service instituted

Ideas

A spokesman for the SADF said he had no knowledge of the association's proposal

But he added that the military "tried to accommodate as many law graduates as possible into the military's legal system".

Releasing servicemen is one of several ideas the association will be punting to the authorities to get a system of public defenders activated

Said Mr Van Vuuren. "We also want to use final year LLB students — under the guidence of their professors — as public defenders."

Academic lawyers are also backing the idea

The plight of thousands of accused unable to afford legal defence was highlighted two month's ago by a landmark Natal Supreme Court judgment

Charges

Judges John Didcott and David Friedman quashed on review the conviction and sentence of two unrepresented men convicted of house breaking.

The evidence against them was a set of fingerprints police found in the house shortly after a burglary two years ago

Judge Didcott said "Like so many who face criminal charges, the two men had no lawyer to advise and represent them

"They were quite at sea, the (court) record shows, and far beyond their depth"

Said Professor Van Zyl Smit, head of the criminology department at Cape Town University "No layman can be expected to cross-examine a fingerprint expert so he got off on the basis of a mistrial"

As matters stand, the Legal Aid Board is to administer R12-million in fiscal 1988 — a 33 percent rise on last year

Most is spent on civil cases, such as divorce and accident claims, and only 20 percent on defending criminal cases

City doctor's killer hanged

Argus 1/9/88

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Crime Reporter

WILLIAM MANUEL, 36, who murdered 76-year-old Dr Helen Fox in her Pinelands home a year ago, has been executed.

He was one of four people hanged in Pretoria yesterday, bringing to 89 the number of executions this year

Manuel, of Oudtshoorn, was sentenced to death on December 4 last year.

Mr Justice Conradie said when passing sentence that Manuel had a record of criminal violence going back to 1972 and in terms of the law he had no choice but to impose the death sentence

PANTIHOSE ROUND NECK

Manuel was sentenced to 10 years' imprisonment for breaking into Dr Fox's home.

The court heard that Manuel had asked Dr Fox for money and had tied pantihose round her neck before searching the house.

Manuel said that when he went to untie the pantihose Dr Fox was dead.

He said he had then raped her.

He was acquitted of rape because the State could not prove beyond a reasonable doubt that Dr Fox was still alive.

SOWETAN, Friday, September 2, 1988

AN Afrikaner motor mechanic from Pretoria, has launched a campaign to petition the State President, Mr P W Botha, to commute the death sentence imposed on the Sharpeville Six.

By MONK NKOMO

Mr Tommy Viljoen, of Pretoria West, told the *Sowetan* yesterday that the petition was based on humanitarian grounds and was not connected to any political party

Mr Viljoen, who is a qualified motor mechanic and working at a garage in Pretoria West, said he had already collected 7 000 signatures and hoped to compile at least 50 000 before he personally presents the petition to President Botha

"Half of the people who signed the petition are whites," said Mr Viljoen He hoped to collect more signatures from areas outside Pretoria "but I have a financial problem as I would like to get signatures throughout the country and from people of all races, especially whites," Mr Viljoen added.

The objective of the campaign, the motor mechanic said, "is that a plea of mercy should be extended by the State President towards the Sharpeville Six "

Mr Viljoen said his aim was to plead with President Botha to commute the death sentences and replace them with imprisonment.

Mr Viljoen urged black and white people to join him in the campaign and **warned that the Six's** execution could well be the start of retaliation moves by radical elements which could result in bloodshed and increased violence "

The Sharpeville Six — five men and a woman — have been on death row since December 1985 after being convicted for the murder of Lekoa deputy mayor, Mr Jacob Khuzwayo Dlamini

A petition to have their case re-opened will be heard in the Appeal Court, Bloemfontein, next Wednesday, September 7 The defence team will be led by Mr Sidney Kentridge QC, and Mr Ishmael Mohammed SC

"The upliftment of the black man's standard of living is long overdue," said Mr Viljoen.

"I have been in the motor trade for 34 years during which time I have helped 25 black men to become qualified motor mechanics," Mr Viljoen said.

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2/9/88

Mercy calls for death row ex-cops

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CAPE TIMES 7/9/88

PRETORIA — Placards calling for mercy for former policemen Jack le Grange and Robert van der Merwe, both of whom face death sentences, were displayed outside the Union Buildings here yesterday

And petitions with more than 100 000 signatures for clemency were handed to the office of the State President, Mr P W Botha

At an impromptu press conference outside the Union Buildings, Witbank pensioner Mr Marthinus Hoffman, who organized the petitions, announced that the former head of the Brixton Murder and Robbery Squad, Colonel Staal Burger, had joined the mercy action and would address a public meeting in Pretoria tomorrow night.

Mr Hoffman said he had handed the stack of petitions to Mr Ian Putter, the State President's administrative secretary, who assured him he would personally see to it that the petitions were brought to Mr Botha's attention

The former policemen reeived a double death sentence for the murder of drug dealers Mr Peter Pillay and Mr Bennie Ogle

Mr Hoffman said he applied to see Mr Botha but was told that the president had other duties

"I replied that the lives of these two men were more important than his duties" — Sapa

Cape Times 7/9/88 (252)

Sharpeville 'six' in bid to appeal

BLOEMFONTEIN. — A team of five counsel will present argument to the Appeal Court here today on the petition by the "Sharpeville Six" for leave to appeal against the dismissal of an application to reopen their trial, and against the refusal of an application to amend their notice of motion.

The "Six" are Majalefa Reginald Sefatsa, Reid Malebo Mokoena, Oupa Moses Diniso, Theresa Ramashamola, Duma Joshua Khumalo and Francis Don Mokgesi.

They were sentenced to death for the murder of the Deputy Mayor of Lekoa, Mr Kuzwayo Jacob Dlamini. He was disarmed, stoned and burned after his house and car were set alight at Sharpeville on September 4, 1984.

The "Six" lost appeals in December last year against the death sentences imposed.

A stay of execution was granted by the trial judge on March 17, 1988. — Sapa

PETITION PLEA BY SHARPVILLE SIX COUNSELS

BLOEMFONTEIN — Legal process on the Sharpeville Six resumes today in the Appeal Court at Bloemfontein.

Five counsel will argue on a petition for leave to appeal against dismissal of an application to re-open their murder trial.

They will also argue against the refusal of an applicaton to amend their notice of motion.

The six, Majalefa Reginald Sefatsa, Reid Malebo Mokoena, Oupa Moses Diniso, Theresa Ramashamola, Duma Joshua Khumalo and Francis Don Mokgesi, were sentenced to death for the murder of Lekoa deputy mayor Kuzwayo Jacob Dlamini in September 1984.

The six lost appeals last December against death sentences.

A stay of execution was granted by the trial judge in March with the proviso that they should bring their application to re-open the trial no later than April 18.

The application was launched on April 15 for the further cross-examination of Joseph Motsumi Manete, any other State or defence witnesses arising from his evidence and any other evidence the court might want to be called, followed by reappraisal of convictions and sentences.

On June 1 the applicants sought to amend their notice of motion to provide for the hearing of further evidence from Manete and Johannes Mongaule and, if such evidence warranted, for a special entry to be made on the trial record.

Mr Acting Justice W J Human dismissed the application to re-open the trial. He refused leave to appeal. — Sapa.

(258) B/day 7/9/88

Legal opinion differs on a case of life and death

The international spotlight will focus on South Africa again today when the Appeal Court in Bloemfontein will hear what may be the final legal argument in the Sharpeville Six case If the Appeal Court decides that the Supreme Court's refusal to reopen the case was correct, only the intervention of the State President will save the Six from the gallows What do South African legal experts feel about the case?

If you rob a bank with a friend and your friend shoots someone dead during the robbery, the court may decide that you are guilty of murder even though you did not actually pull the trigger

In similar fashion, the Sharpeville Six were found guilty of murder in terms of the doctrine of "common purpose"

They were found guilty even though there was no evidence that any one of the accused had lit the petrol which burned to death the deputy mayor of the Lekoa town council, Mr Kuzwayo Dlamini They were sentenced to death

When the Appeal Court upheld this decision there was an international outcry, but despite this, legal experts have said recently that the court correctly applied the doctrine in the case

Severe criticism

Criticism of the case was especially severe in many of the international press reports

Under the headline "Judges who support a bad system" the London based *Guardian* reported "The reason for the genuine international concern over this case among so many is simple The condemned did not commit the murder of which they were found guilty

"Those who did have never been caught, hundreds who were part of the crowd and therefore just as 'guilty' were not arrested," the report said

But, legal experts here have now refuted the *Guardian* categorically You can't be convicted of murder in South Africa simply because you are part of a murderous crowd None of the Six accused were simply part of the crowd — they were all found to have associated themselves with the murderous acts of the perpetrators

The trial court found that all of the accused had in some way "actively associated" themselves with the conduct of the mob of about 100 people, responsible for the gruesome murder Some of the accused had, for example, either thrown stones at the deceased or they had made fire bombs and burned his car and house

The Appeal Court agreed and found, on the facts outlined by the trial court, that "the individual acts of each of the six accused convicted of murder manifested an active association with the acts of the mob which caused the death of the deceased"

Mr Justice Botha, delivering the unanimous judgment of the full Bench said "These accused shared a common purpose with the crowd to kill the deceased and each of them had the requisite intention in respect of his death"

In an article in the latest edition of the *South African Journal of Criminal Justice*, University of the Witwatersrand senior lecturer Mr Nick Matzukis lists three requirements for a conviction on the basis of

BY TIM COHEN

This week, in the full glare of international attention, the fate of the "Sharpeville Six" will come before appeal judges for what could be the last time If the judges refuse to allow the reopening of the case, the lives of the accused will depend solely on the final arbiter, the State President

Sharpeville 6 judgment scrutinised by experts

common purpose Active association, foresight of the possibility that the other party will commit an act bringing about the deceased's death and a desire on the part of the accused to associate himself with the murderous acts of the other party

Based on this, the case of the Sharpeville Six was correctly decided on the issue of criminal liability

"In what is, with respect, a carefully reasoned and sound judgment, Botha JA considered all the authorities and, not suprisingly, concluded that a party to a common purpose can be convicted of murder in the absence of proof of a causal connection between his conduct and the death of the deceased"

Amplifying his article, Mr Matzukis told The Star the common purpose doctrine was not a new one in South African law

The principle had existed for a number of years and could not be said to be a stranger to other legal systems either, he said

"It is a perfectly acceptable principle to be found in most civilised non-political systems of criminal justice"

EVIDENCE

So legal experts say that if the Sharpeville Six did what the court found them to have done, then the doctrine of common purpose was correctly applied But did they in fact do what the court said they did?

This question is especially relevant as regards accused number three, Oupa Moses Diniso, because there was no direct evidence that he was even on the scene at the time of the murder

The case of Oupa Diniso

The Appeal Court found that he was one of the small group of men who caught hold of the deceased as he was running in the direction of his neighbour's house, and who wrestled with him for the possession of his Star pistol The court accepted that this finding rested on an inference

How did the court come to this conclusion?

Diniso admitted to a police officer that he had the pistol in his possession 67 days after the murder took place and he handed the weapon over He was pointed out as the person who had the pistol by one of the other accused

The trial court regarded this evidence as damning The judge said "The fact that the firearm was found in accused three's possession links him directly with the events which took place

'The only inference is that number three was one of the persons who seized the deceased, near the fence of his house while he was fleeing that morning, with the intention to disarm him so that the deceased was thereby rendered harmless, and paved the way for the other rioters present there to pelt him with stones with the intention of killing him," the trial court judge said

A lying witness

Diniso said he had taken the firearm from three youths on his way home from playing golf But the court found he was a lying witness and did not accept this evidence He denied that the weapon found in his possession was that displayed later before the court, but even the defence counsel conceded that the pistol belonged to the deceased

Writing in the *South African Journal of Criminal Justice*, Mr Edwin Cameron argues that Diniso's conviction represents an "unjustified and disquieting departure from the South African courts' own proclaimed standards of logic and justice"

The court, he writes, failed to take account in favour of the accused "the aura of the accused's co operation" when the policeman asked him for the firearm

Secondly Mr Cameron asks "Surely the long lapse of time between the murder and the weapon's location gives rise to the gravest questions as to what could have happened in the interim?"

Thirdly he could have told the lies for any number of reasons incompatible with guilt

"To move from the suspicious circumstance that accused three was without explanation and to the knowledge of one of the victim's active assailants, in possession of the dead man's gun, to the conclusion that he participated in the murder represents not one, but a number, of frightening leaps in logic

"There is a real and frightening possibility that Oupa Moses Diniso now on death row, is innocent."

EXTENUATION

Should the court have found that extenuating circumstances existed in the Sharpeville Six case and that the accused therefore did not warrant the death penalty?

The accused did not testify on the question but evidence was given by a 'highly qualified and experienced psychologist" on their behalf

The psychologist said it was "highly probable" that an individual in a mob situation would experience "de individuation", which would lead to diminished responsibility similar to that experienced by someone who was drunk

The Appeal Court said this could not be specifically related to any individual accused because no evidence regarding the actual motivation and state of mind of the accused was placed before the trial court

Professor "Sas" Strauss of Unisa, said the Appeal Court correctly referred to the views of the psychologist as "of a wholly generalised nature and unrelated to the individual accused"

However, other legal experts are highly critical of the court's findings

In an article in the *South African Journal of Criminal Justice*, the University of Natal's Professor James Lund argues that the moral blameworthiness of the accused was reduced because

- There was evidence that individuals in a mob manifest behaviour which "observers would agree is emotional and impulsive"
- There was evidence of broad ranging political and social grievances
- The fact that the convictions were based on common purpose, and therefore the extent of the participation of each of the accused was limited

Professor Lund said that during argument on extenuation counsel for the accused urged the trial court to take into account the limited extent of the participation of the accused

No mention of misdirection

He noted that the trial court judge Mr Justice A J Human did not refer to this anywhere in his judgment

This he wrote should have constituted a misdirection, but inexplicably received no mention in the Appellate Division judgment

Mr Nick Matzukis of Wits University, said the court's failure to find extenuating circumstances was especially wrong in "common purpose" cases, because the accuseds' liability was based on something less than conduct which causally contributed to the victims death

Mr Cameron says the Appeal Court's judgment on extenuation was 'disquieting"

The second accused in the Maureen Smith murder trail, the chauffeur escaped the death penalty because his participation was limited even though he had helped procure the hired assassin, and had lured the victim into the house by tripping the main electricity switch Mr Cameron writes

FIGHT FOR SIX STARTS

Team of 5 will argue case

252
Argus
7/9/88

A TEAM of five counsel will present argument to the Appeal Court in Bloemfontein today on the petition by the "Sharpeville Six" for leave to appeal against the dismissal of an application to re-open their trial and against the refusal of an application to amend their notice of motion.

SA Press Association

The "Six" are Majalefa Reginald Sefatsa, Reid Malebo Mokoena, Oupa Moses Diniso, Theresa Ramashamola, Duma Joshua Khumalo and Francis Don Mokgesi.

They were sentenced to death for the murder of the deputy mayor of Lekoa, Mr Kuzwayo Jacob Dlamini. He was disarmed, stoned and burned after his house and car were set alight at Sharpeville on September 4, 1984.

The "Six" lost appeals in December last year against the death sentences they received from Mr Acting Justice W J Human for the murder.

A stay of execution was granted by the trial judge on March 17, 1988, with the proviso that they bring their application to re-open the trial no later than April 18, 1988.

The application was launched on April 15 for the trial to be re-opened for the further cross-examination of witness Joseph Motsumi Manete, for the further cross-examination of any other state or defence witnesses arising from, and in the light of, the further cross-examination of Mr Manete, for the hearing of any further evidence that the court, in the exercise of its discretion, might require to be called, in the light of the above to reappraise the convictions and sentences of all six.

"At a formal ball, I'm not sure how often I should offer to dance with my partner But I do know exactly what cigarettes to offer when sitting out"

Cape Times 8/9/88 (252)

'Six' hearing: Surprise turn

BLOEMFONTEIN — There was a surprise turn in the hearing of the argument on the petition by the "Sharpeville Six" for leave to appeal against the dismissal of their application to the Transvaal Supreme Court for leave to reopen their trial

At the conclusion of argument by the counsel for the Attorney General of the Transvaal, Mr J L van der Merwe, SC, Mr Justice Corbett — one of the five judges hearing the application — asked whether the state would have any objection if the Appeal Court regarded the application as the appeal in the matter

Initially Mr Van der Merwe said he could not see that there would be other argument on an appeal than there had been on the application.

Mr S Kentridge, SC, who delivered the argument for the applicants, also told the court that there was nothing further that they would wish to add in argument.

However, after Mr Kentridge had delivered his replying argument to that of Mr Van der Merwe, Mr Van der Merwe again rose to say "I must not be taken as agreeing that this procedure can be converted into an appeal I have no instructions to that effect"

The Acting Chief Justice Mr Justice Rabie, Mr Justice Corbett, Mr Justice Joubert, Mr Justice Hoexter and Mr Justice Van Heerden reserved judgment.

Yesterday Mr Kentridge argued that the fact that an appeal on the merits had already been disposed of was no bar to a special entry

He said there would only be a bar where the matter complained of in the special entry was substantially the same as the matters raised in the appeal. The irregularity complained of in this case was not before the court in the appeal against the death sentences

Mr Kentridge submitted that prima facie there was evidence that the SAP fraudulently procured the adducing of false evidence by Mr Joseph Manete and Mr Johannes Mongaule in regard to four of the six

A deliberate and fraudulent interference of justice which imperilled the basic right to a fair trial was an irregularity on which a special entry might be made, he said

Mr Kentridge said that where there was an element of improper or fraudulent conduct and where justice required a case to be reopened, none of the authorities seemed to close the door finally.

It was only in the rarest possible case that the court would exercise "this extraordinary jurisdiction" and this was such a case — Sapa

BLOEMFONTEIN — Several family members and representatives of several embassies are among the about one hundred spectators at the Appeal Court here for the application by the Sharpeville Six for leave to appeal against the dismissal of their application to reopen their trial

The six are Majalefa Reginald Sefatsa, Reid Malebo Mokoena, Oupa Moses Diniso, Theresa Ramashamola, Duma Joshua Khumalo and Francis Don Mokgesi.

There are representatives of the Belgian, Austrian, Greek, French, Canadian, United States, Netherlands, Australian, German and Italian embassies, the Japanese Consulate and the Swedish Legation. — Sapa

'Six' lawyer calls for oral evidence

LET HIM SPEAK

252

Sowetan 8/9/88

JUDGMENT has been reserved in the application by the "Sharpeville Six" for leave to appeal against the dismissal of an application to reopen their case and bring a special entry onto the record.

Bid to re-open trial goes on

The case took a surprise turn at the end of the argument for the Attorney General of Transvaal, when Mr J L van der Merwe, SC, was asked by Mr Justice Corbett whether yesterday's proceedings should not be regarded as not only the application for leave to appeal but also the appeal.

Initially, both Mr van der Merwe and Mr S Kentridge, SC, for the applicants, appeared to agree that there could be nothing further to add to the argument.

However, at the conclusion of Mr Kentridge's reply to Mr van der Merwe, the latter told the court that he must not be taken as agreeing that the procedure could be converted into an appeal. He had no instructions to that effect

Earlier Mr Sydney Kentridge, SC, told the Appeal Court in Bloemfontein in the application for leave to appeal against the refusal of the trial judge to re-open the trial of the "Sharpeville Six", that the strange features in the conduct of the State witness, Mr Joseph Manete, could only be clarified by oral evidence.

The petition has been lodged by Mojalefa Reginald Sefatsa, Reid Malebo Mokoena, Oupa Moses Diniso, Theresa Ramashamola, Duma Joshua Khumalo and Francis Don Mokhesi.

They were sentenced to death by Mr Acting Justice W J Human in the Transvaal Supreme Court for the murder of the deputy mayor of Lekoa, Mr Kuzwayo Jacob Dlamini, who was disarmed, stoned and burnt after he fled from his burning house at Sharpeville on September 4, 1984 His car was also set alight

Argument on the petition is being presented to the Acting Chief Justice Mr Justice Rabie, Mr Justice

• To page 2

'Six' trial

• From page 1

Corbett, Mr Justice Joubert, Mr Justice Hoexter and Mr Justice van Heerden

Sowetan 8/9/88

The six petitioners are represented by Mr S Kentridge SC, Mr J Unterhalter SC, Mr I Mahomed SC, Mr E Cameron and Mr S Naidoo. The State is represented by Mr J L van der Merwe SC and Mr E Jordaan.

INSIDE TODAY

★★★★★★★★★★

I've been used – Magomola

• See page 3

★★★★★★★★★★

PW vs Treurnicht

• See page 8

★★★★★★★★★★

Cosmos vow to keep title

• See page 24

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P.T.O.

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FREE SISSX

The execution of the Sharpeville Six has been postponed. We however remain disturbed and concerned that the death sentences were not lifted.

After the application for a reopening of the case was rejected on June 13 the court will hear again on September 7 an appeal by the defence of the accused against this decision. We sincerely hope that this appeal case will not again lead to a delay.

The Six have been found guilty purely on the basis of "common purpose". This stands in sharp contrast to our understanding of international legal standards.

This specific case — as well as numerous other recent events in South Africa — remind us, citizens of the Federal Republic of Germany, of our own calamitous past.

We cannot remain silent to similar events that violate international standards and fundamental principles of human rights, wherever they may occur.

Südafrikagruppen der Evangelischen Frauenarbeit
(South Africa groups of Protestant Women)
Projektgruppen innerhalb der Nordelbischen Kirche
(Support Project Groups in the Nordelbien Evelig. — Lutheran Church).

no reported cases among blacks Now there were 17.

Slabber said prevalence of the HIV virus in the population was low but found in both sexes and all ethnic groups

He added that the problem of con-

He said economic slumps had made it difficult to maintain health programmes and services and the challenge now was to use resources more effectively.

He foresaw a need for co-ordination of private and public sectors in

at more than 1-million a year

He added, on the problems of an ageing population, that the white population over 60 would have risen by 22% by the year 2000, coloureds by 44% and blacks by 64%.

Query on nature of application for appeal

252 B/Day 8/9/88

Sharpeville Six case takes a surprise turn

BLOEMFONTEIN — Judgment has been reserved in the application by the "Sharpeville Six" for leave to appeal against the dismissal of an application to re-open the case and to bring a special entry on record

The re-opening of the trial was also sought for cross-examination of a witness, Joseph Manete

The case took a surprise turn at the end of the argument for the Attorney-General of the Transvaal — J L van der Merwe, SC, was asked by Mr Justice Corbett whether yesterday's proceedings should be regarded not only as an application for leave to appeal, but an appeal

Initially Van Der Merwe and Sydney Kentridge, SC, for the applicants, appeared to agree that there could be nothing further to add to the argument.

However, after Kentridge had delivered his replying argument to that of Van Der Merwe, Van Der Merwe rose to clarify his stance.

"I must not be taken as agreeing that this procedure can be converted into an appeal I have no instructions to that effect"

The Acting Chief Justice Mr Justice Rabie, Mr Justice Corbett, Mr Justice Joubert, Mr Justice Hoexter and Mr Justice van Heerden reserved judgment.

Embassy representatives from Belgium, Austria, Greece, France, Canada, the US, The Netherlands, Australia, West Germany and Italy, the Japanese Consulate and the Swedish Legation have been attending the proceedings.

The "Six" are Theresa Ramashamola, Majalefa Reginald Sefatsa, Reid Malebo Mokoena, Oupa Moses Diniso, Duma Joshua Khumalo and Francis Don Mokgesi. — Sapa.

Star 8/9/88

None of them were there — witness

Judgment reserved in Six application

Own Correspondent

BLOEMFONTEIN — Judgment was reserved yesterday in the Sharpeville Six's application for leave to appeal against the dismissal of an application to reopen their trial and against the refusal of an application to amend their notice of motion

In an unprecedented court case in South African legal history, the six yesterday petitioned five of the country's top judges

Their petition to the Chief Justice was one of their two last remaining legal avenues

Their petition followed an international outcry when the Appeal Court in December last year upheld the trial court's verdict after neither of the courts found evidence that any one of the six accused killed Lekoa deputy mayor Mr J K Dlamini

The arguments presented yesterday to the full Bench of the Appellate Division did not differ substantially from arguments during the hearing of the application to reopen the case earlier this year

Counsel for one of the respondents, the Transvaal Attorney-General, said the only legal remedy for the six, who are spending their 1 000 th day on death row today, was to ask the State President, Mr P W Botha, for clemency

The second respondent, the Minister of Justice, did not oppose the application

Mr J L van der Merwe, counsel for the Transvaal Attorney-General, argued that the Appeal Court had no inherent jurisdiction to reopen the trial

Mr Van der Merwe said counsel for the six had asked the Appeal Court "to do something which has never been done before"

Mr Van der Merwe submitted that if the Appeal Court accepted that it had the inherent jurisdiction to reopen the trial, it was not following the country's laws but giving decisions at random

He filed further affidavits supplementing the State's heads of argument The affidavits included those of two State witnesses, Mr J Mabuti and Mr J Manete

After making several contradictory statements, Mr Manete said in his latest affidavit that he had seen none of the six at the scene of the crime

He alleged he was assaulted by the police, who gave him the names of the accused to put in his first statement

Mr Manete, who said he had been following the six's case "anxiously", stated in his affidavit "I now believe it is important to tell the truth, irrespective of what the consequences may be for me personally

"Nor do I wish innocent persons to suffer or to die for a crime which they did not participate in "

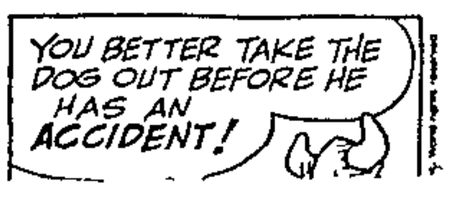
On the other hand, counsel for the six asked the Appeal Court for a limited reopening of the case to hear new evidence by Mr Manete

Mr Sydney Kentridge, SC, told the packed court that there was a "good deal of concern" for the implication of Mr Manete's statement and it was a *prima facie* case for police assault

Mr Kentridge said the six had a strong case on the merits, and whatever criticism was levelled against Mr Manete and Mr Mabuti, Mr Manete had said from the start that he was under undue pressure

Mr Kentridge said it was therefore premature for the trial judge to have said the application to appeal against his refusal to enter a special entry on the court records was "frivolous, absurd and abuse of the courts"

HAGAR the Horr



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THE PEOPLE'S PAPER

(Pren 252) 11/9/88

PW 'sure' to save Six from noose

By CHARLES MOGALE from the Appeal Court

THE Sharpeville Six may not hang after all

Two major events this week have left observers confident that in the event of the Appeal Court refusing to re-open the trial, State President PW Botha will almost certainly commute their death sentences

Botha is under immense pressure to pardon the Six He told a British television interviewer this week that "as a human being and a Christian," he was prepared to consider pardoning the Six once all legal avenues were exhausted

On the other hand, there is speculation that the State President will bow to pressure from the white community to pardon killer policemen Jack la Grange and Robert van der Merwe

This week 101 000 signatures calling for the pardon of the two killers of "known drug dealers," were handed in at the Union Buildings

It is believed President Botha may pardon the two groups simultaneously.

This could win the National Party much-needed support for the October 26 elections "

Sydney Kentridge, SC, leading the five-man team of advocates appearing for the Six, told a full bench of judges that justice cried out for the re-opening of the trial

Kentridge said whether allegations by State witness Joseph Manete that he perjured himself were true or not, they needed to be heard by the trial judge

Opposing the application, State counsel JL van der Merwe, for the Transvaal Attorney General, said that in terms of the Criminal Procedure Act a special entry could be made at the latest before the Appeal Court gave judgment on appeal

A remedy for the applicants could be to petition the State President in terms of Section 327 of the Act Van der Merwe referred to Judge Human's remarks that beside Manete's evidence, there was sufficient evidence to convict all Six

Judgment has been reserved

CLEMENCY MOVE

Reprieve for Sharpeville Six and cops?

A POLITICAL contingency plan — to grant clemency simultaneously to the Sharpeville Six, as well as several policemen on death row — is being mooted at the highest level of the Government if the death sentences remain unchanged by the courts.

According to several government sources, the State President Mr P W Botha, is likely to use his special constitutional powers of clemency to commute the death sentences of the Six as well as those of at least two policemen (and possibly four) to solve a number of urgent political problems in one blow

This does not mean any one of the people involved would go unpunished. Instead of being executed, they will serve lengthy jail sentences

No announcement of this nature can be made until the judicial procedures involving the Sharpeville Six have been exhausted, and the matter of their reprieve is placed formally before the President again

The Appellate Division of the Supreme Court last week reserved judgment on the Sharpeville Six's application for leave to appeal against the dismissal of an application to reopen their trial.

The five men and one woman, who have spent more than 1 000 days on death row, are Mojalefa Sefatsa, Reid Mokoena, Oupa Diniso, Theresa Ramashamola, Duma Khumalo and Francis Mokgesi.

They have appealed to reopen their trial on the basis that some of the evidence at their trial was procured falsely by the police

They were found guilty of having had common cause with a crowd who murdered the deputy mayor of Lekoa, Mr Jacob Khuzwayo Dlamini, on September.

President Botha has previously made it known that he could not interfer with the course of justice involving the Six. His earlier decision not to grant them clemency would stand unless new factors were introduced.

If leave to appeal to reopen their trial is turned down, Mr Botha will have a new opportunity to decide on clemency.

The two policemen likely to be granted clemency are Jack la Grange, a former commander of the East Rand Murder and Robbery Squad, and former detective Robert van der Merwe

Death

Both men were sentenced to death for the murder last year of two drug dealers and the attempted murder of a Soweto businessman, Mr Ernest Molokoane

The Appeal Court has refused the men leave to appeal against their convictions and death sentences

The Government has come under enormous domestic pressure to grant the men clemency.

A petition with close on 100 000 signatures appealing for clemency was handed to the office of the State President last week

If clemency was granted to the men, the Government would reap substantial political benefits from the white and particularly the conservative elements of the community

Pressure

Pressure on the Government to grant clemency to La Grange and Van der Merwe is a little squeeze compared with the pressure to commute the sentence on the Six.

The European Community particularly has taken a very strong stand on the issue and the 12 countries of Western Europe have made it clear that severe repercussions would follow if the Six were hanged.

Threats made have included the withdrawal of European ambassadors to South Africa and the cancellation of SA Airways landing rights in Europe.

If the Six do hang, there are also likely to be serious repercussions in the US where the pro-sanctions lobby is in need of new ammunition for its cause.

World focus on appeal of Sharpeville Six

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From MONO BADELA

JOHANNESBURG. — World attention once again focused on the Sharpeville Six this week as one of South Africa's top legal counsellors argued in the Appeal Court, Bloemfontein, for the case to be reopened.

Representatives of at least 12 foreign governments and a large corps of international newsmen listened to Mr Sydney Kentridge, SC, presenting argument on the petition by the Sharpeville Six for leave to appeal against the dismissal of an application to re-open their trial.

They are also petitioning against the refusal of an application to amend their notice of motion

The six were found guilty of having common cause in the murder of the deputy mayor of Lekoa, Mr Jacob Khuzwayo Dlamini, on September 3 1984.

Special entry in records

The five men and a woman — who this week spent almost 1 000 days on death row — are also appealing against the refusal to enter a special entry on the court records that some of the evidence at their trial was procured falsely by the SAP

The six are Majalefa Reginald Sefatsa, Reid Malebo Mokoena, Oupa Moses Diniso, Theresa Ramashamola, Duma Joshua Khumalo and Francis Don Mokhesi

A stay of execution was granted by the trial judge on the on March 17 1988, with the proviso that they bring their application to re-open the trial not later than April 18.

The application was launched on April 15 for the trial to be re-opened for the cross-examination of witness Joseph Manete and for the further cross-examination of any other state or defence witnesses arising from the further cross-examination of Mr Manete

Emergency rules —courts limited

Star - Times 14/9/88

By BARRY STREEK
Political Staff

252

THE POWERS of the courts to overturn the emergency regulations have been effectively limited by rulings made by the Appeal Court in Bloemfontein yesterday

The Appeal Court upheld two appeals by the government against rulings made by the Natal Supreme Court and the Supreme Court, Durban, which in 1986 and 1987 set aside some of the clauses in the emergency regulations at the time

In a 4-1 decision, the court ruled that the State President could make regulations even if they were vague, although three of the judges said the President had to keep within the limits of his authority

But the Acting Chief Justice, Mr Justice Rabie, held that the appellants' view was correct that even if the regulations were vague, which they had not conceded, they were barred by Section 5B of the Public Safety Act from declaring them invalid, and the lower court had wrongly found that Section 5B was not applicable to the regulations, which it declared invalid for vagueness

In a separate judgment, Mr Justice Hefer agreed with the order made by Mr Justice Rabie, but said the State President had to keep within the limits of his authority

A regulation that exceeded those limits could be declared invalid, despite the provisions of Section 5B, they said

However, Mr Justice Van Heerden said he believed that, despite Section 5B, a court could express itself on the validity or otherwise of a regulation that was attacked on the basis of vagueness

Yesterday's rulings followed two orders setting aside aspects of the so-called "media regulations"

In the decision on April 24, 1986, two judges of the Natal Supreme Court ruled in favour of the UDF and Release Mandela Campaign, by declaring part of the regulations dealing with the definition of a "subversive statement" to be null and void

These regulations were, in any event, amended on January 29 last year

In the second case, on April 28 last year, Mr Justice Leon set aside regulations restricting campaigns for the release of Internal Security Act detainees

This followed an application by the Release Mandela Campaign, the Detainees Parents Support Committee and the Black Sash

The tale of a man who knocked on the judge's door, brings new hope for the Six

w/Mail 9/15/90

DAVID BERESFORD reports on the Sharpeville Six appeal in Bloemfontein

Anxiously waiting ... Francis Mokhesi's sister, Joyce, and lawyer Prakash Diar

Picture: AFP

A FATHER's frantic efforts nine years ago to save his son from the gallows has brought a new glimmer of hope for the Sharpeville Six.

The story of how a stubborn father persuaded South Africa's chief justice to bend the rules in 1979 this week provided defence lawyers for the Six with a desperately needed precedent to have new evidence submitted in their case.

The precedent was discovered by lawyers just hours before they went to the Appeal Court in a last ditch battle to save the lives of the Six — who have now been on death row for more than 1 000 days.

Bloemfontein's central courtroom was packed for the hearing by relatives of the Six, foreign media and representatives of most foreign embassies in South Africa, including the German ambassador Immo Stabreit.

The Germans, among others, are expected to withdraw their ambassadors from South Africa if the six hang.

The defence team went to Bloemfontein to try to persuade the court to admit new evidence from a state witness who claimed he had been intimidated by police into perjuring himself at the original trial.

The hearing itself was unprecedented. It is believed to be the first time a full bench of the Appellate Division has sat to hear such a petitition.

Acting Chief Justice Rabie — seemingly stung by international criticism of the South African judiciary over the Sharpeville case directed that both he and his most senior judges would preside.

As a result the hearing provided something of a show case of South African legal talent. The bench itself was, by coincidence, evenly divided betwen judges considered in academic circles to be "liberals" and "conservatives".

The liberals were Justice Corbett and Justice Hoexter, the conservatives Acting Chief Justice Rabie and Justice Joubert, while Justice Van Heerden is considered "middle of the road".

Justice Van Heerden is the sixth most senior judge at the Appellate Division, but was brought in to replace Botha — who was responsible for the rejection of the original appeal by the Six against their death sentences.

The Six were represented by what is probably the most brilliant legal team South Africa can produce: five advocates led by the country's most famous lawer, Sidney Kentridge SC and QC — best known for his part in the Biko inquest — and supported by the outstanding advocate, Ismail Mahomed.

Kentridge delivered three and a half hours of argument trying to persuade the court to admit the confession of state witness Joseph Manete who said he lied at the original Sharpeville trial after being assaulted and intimidated by police.

His argument was two-pronged, asking that the evidence be admitted either by a "special entry" into the original trial record or by simply re-opening the case.

"Special entry," is a device allowing evidence to be introduced if there has been a "procedural irregularity" in a trial — but it cannot be used simply on the grounds of perjury.

Kentridge argued, however, that Manete's new evidence suggested there had been a "deliberate and fraudulent interference in the course of justice" by police which amounted to such an irregularity.

Kentridge conceded there was no provision in South Africa for the re-opening of a trial: there is a general principle at law that there has to be "finality of judgement".

But he argued there had to be "inherent jurisdiction" of the court to take such a step "whenever justice cries out for it to do so".

And he told the five judges his team had, at the last minute, discovered a precedent for such a step — the extraordinary case of *Lesley Sikweyiya versus the State* in 1979.

Kentridge briefly sketched the case: Sikweyiya had been sentenced to death and had been refused an appeal. His subsequent petition to the chief justice — then Justice Rumpff — for leave to appeal had also been refused.

But 11 days after the refus had been handed down the petition was suddenly granted; a appeal hearing had been held an the condemned man was declared innocent.

There was no judgement explaining the reversal, said Kentridge.

But the initial refusal of the petition had all the finality of a court judgement and it could only have been reversed by an exercise of "inherent juristiction".

Although Kentridge avoided going into detail, the story behind the case is well known at the South African Bar and on the Bench:

The condemned man's father had gone to Justice Rumpff's home in Bloemfontein to make a personal appeal for his son's life. The chief justice had been so impressed by his story he had had the refusal of the petition withdrawn and leave to appe granted.

"One must regard it (Justice Rumpff's action) as a deliberate illegality or a case of inherent jursidiction," said Kentridge.

Judgement was reserved.

● The Six are Theresa Ramashamola, Majalefa Sefatsa, Malet Mokoena, Oupa Diniso, D Khumalo and Francis Mokhesi

Weekend Argus 17/9/88 (252)

Doing service, not time

by LINDA VERGNANI
Weekend Argus Correspondent

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400 hours' service

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However, he took the case on appeal to the Supreme Court and was sentenced instead to 400 hours of community service. Last week, he began serving his sentence at the Catholic Educational Aid Programme where he is helping administer bursaries for disadvantaged students.

Working from an tranquil chapel-like building among spring-green oaks, Mr Brown is busy computerising all the bursary fund records

He also is doing statistical research on the university and high-school pupils who benefit from the programme, which falls under the Catholic Welfare Bureau

His other tasks will include giving extra classes for students and transporting pupils to educational institutions

He says "Although I was prepared to go to prison, I was incrediby relieved to get a community-service sentence It's quite a strain doing all this work, but it's much better than going to jail

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Mr Timothy Tyhalisisu does part of his community service sentence in the garden of the Zolani local authority office.

Found guilty on two counts of public violence after throwing four stones in the direction of policemen and throwing a stone at an unoccupied police vehicle Mr Brown s original one-year prison sentence was overturned on appeal to the Supreme Court last month

Mr Justice D M Williamson, with Mr Justice S Selikson concurring, sentenced Mr Brown instead to six months on each count, conditionally suspended for four years, and ordered him to do 400 hours of community service within 18 months

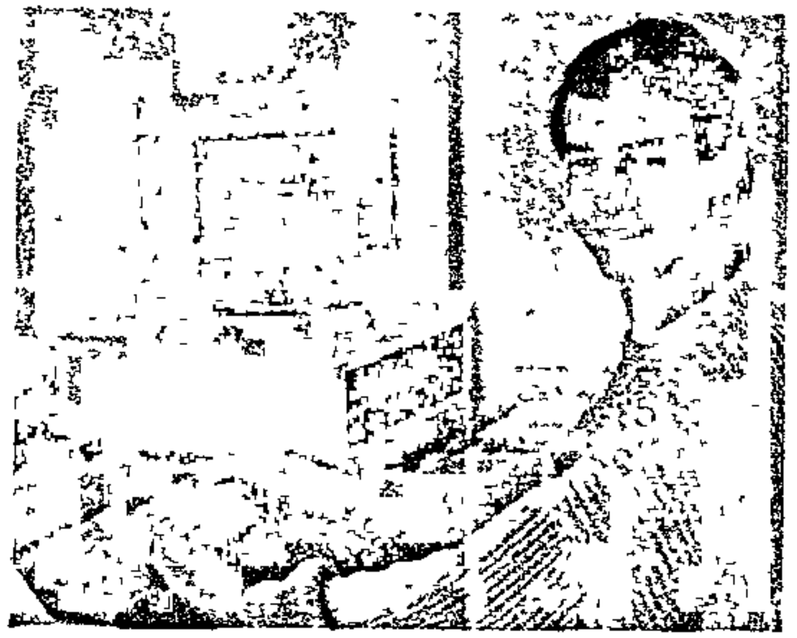
The judge said Mr Brown who had a brilliant school career and successful academic record was a gentle person by nature His previous contact with the police, which included a period in solitary confinement, went a long way towards explaining "these uncharacteristic acts of violence

Mr Brown said 'I had prepared myself to go to jail if necessary But on the other hand I thoght if I did get a community-service sentence it would be a good precedent for other public violence cases"

Judgment in the Brown case was based on a landmark Supreme Court case last year in which Mr Justice Williamson imposed South Africa's first community-service sentence for public violence on four Zolani men

The historic sentence, which was applauded in legal circles was aimed at bringing about reconciliation in the bitterly-divided Ashton township

"I regard the community-service option as an alternative to imprisonment, fundamental to our system of justice. It is a welcome and civilised response to how society could react to criminal acts." — Mr Justice D M Williamson.



Law student Mr Andrew Brown is serving his 400-hour community service sentence doing administrative work at the Catholic Educational Aid Programme.

However serving the sentence in the volatile township proved difficult for the four offenders because of opposition from the community council and supporters of the vigilante group — known as the Amasalomzi

Eventually a compromise was reached whereby the men were removed from public view and put to work creating a vegetable garden which will help feed children and pensioners They also have to work in the garden of the Zolani local authority office

The men, Timothy Tyhalisisu, Samuel Mangcola, Charles Msoki and Lemi Mhlomo, were convicted in the Cape Town Supreme Court of stoning the house and car of one vigilante and stoning and setting alight the car of another

They were ordered to pay a total of R8 500 compensation to the two men and do two years of community service. In terms of the sentence, the men had to spend part of their time collecting rubbish from the streets, fences and other public areas of Zolani

The Rev Andrew Hunter, assistant Anglican priest who supervised the order until August, said 'At the beginning there was tremendous antagonism from the community council

"They were suspicious of the whole idea and wanted these people, whom they saw as troublemakers, out of the community

"From the other side the younger people — the comrades — felt that only one side was getting punished and not the vigilantes It was a fairly tense situation."

Mr Tyhalisisu, a former bus driver who comes from a highly-respected Zolani family, said "It was pretty tough picking up rubbish because people taunted us and vulgar language was used

"Some people quarelled because children were sentenced to jail for the same crimes while we adults were doing light sentences in the townships"

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A senior social worker from Nicro (National Institute for Crime Prevention and Rehabilitation of Offenders) was sent out to investigate and the men were given a "more-positive task" — clearing trees at the entrance to the township and laying out lawns and flowerbeds

However this caused problems, too The men worked in a highly-visible public place next to the taxi and bus ranks and were jeered at by the vigilantes and their supporters

Monitors work

After conferring with Mr Hunter, Mr Smit decided the men should be moved out of public view and set to work making a vegetable garden which would supply the new crèche as well as pensioners

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"I feel humiliated doing this, but it is better than going to jail We can carry on earning and stay with our families"

Weekend Argus 17/9/88 (252)

Doing service, not time

by LINDA VERGNANI
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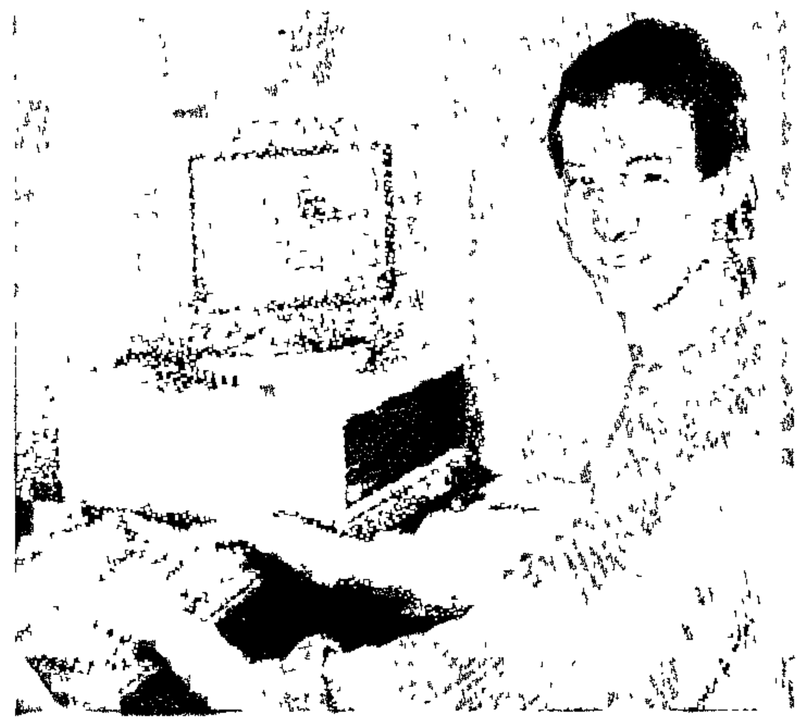

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18/9/88 (252) C/Press

An unusual campaign

Afrikaner petitions to save 'Six'

By SOL MORATHI

AN Afrikaner motor mechanic from Pretoria is seeking permission from the city council to set up a huge banner on Church Square in the centre of the city, calling for pressure to be put on the State President to grant clemency to the Sharpeville Six

Tommy Viljoen of Pretoria West said he wanted to put the banner up next week and was meeting Pretoria City Council officials today

Viljoen said he had already collected more than 10 000 signatures and he hoped to collect at least 50 000 before he personally presented President PW Botha with the petition

He said half of the people who had signed were whites

He said he wanted to display the banner to highlight "even to ignorant people" the need to save the lives of the Six

Viljoen urged people of all racial groups to support him in the campaign "for the good of South Africa"

He said he was not affiliated to any political party and he was only campaigning on humanitarian grounds

An application to have the case of the Sharpeville Six re-opened was heard in the Bloemfontein Appellate Division last Wednesday

Judgment was reserved

Erosion of human rights under spotlight

Last night saw the launch of the Human Rights Commission, a watchdog group created by a range of religious and human rights organisations to call attention to the erosion of human rights in South Africa At the head of the organisation are five human rights commissioners **JO-ANNE COLLINGE** outlines who they are.

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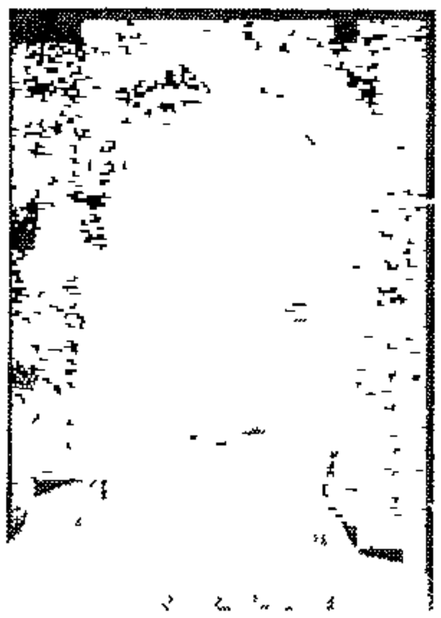


Sheena Duncan

A tireless campaigner

21/9/88

Sheena Duncan's name is synonymous with the Black Sash which she served as national president for several years

Currently Mrs Duncan is national advice office director for the Black Sash and is a vice-president of the South African Council of Churches

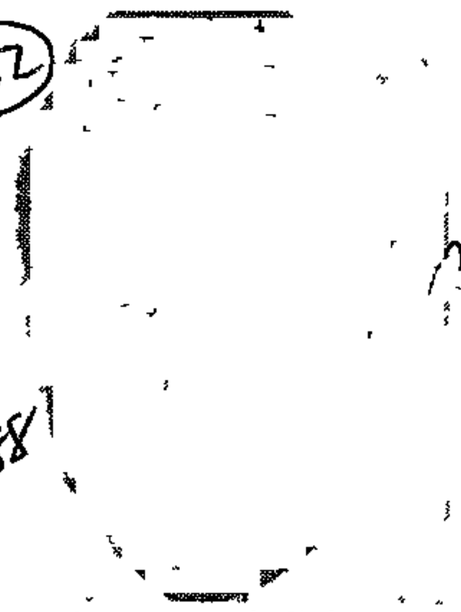
A South African by birth — and daughter of Black Sash founder Mrs Jean Sinclair — Mrs Duncan spent seven years in Rhodesia where she was a member of Sir Garfield Todd's Central Africa Party.

Returning to South Africa in the post-Sharpeville era, she felt compelled to find some avenue of expression for her opposition to apartheid — and turned to the Black Sash

Less prominent than her Black Sash role, but equally sustained, has been Mrs Duncan's work in the Anglican Church

In 1971, when the programme to combat racism within the church was launched, Mrs Duncan was chairman of the Johannesburg committee She has long been a member of the Anglican Board of Justice and Reconciliation

She has contributed forcefully to campaigns against censorship and has spoken out strongly on the question of conscription and the immorality of capital punishment



The Rev Frank Chikane

A Christian in conflict

The Reverend Frank Chikane (37), general secretary of the South African Council of Churches, grew up in Soweto

He was ordained in the Apostolic Faith Mission in 1980 but suspended by his church in 1981 because he was "too involved politically", then went to work for the Institute for Contextual Theology

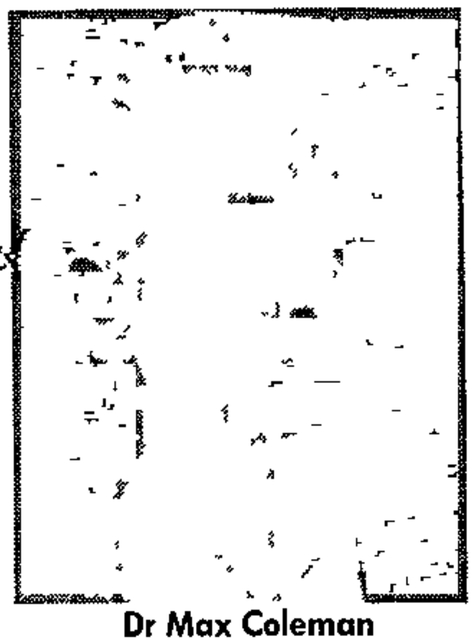
He has served as Transvaal vice-president of the United Democratic Front and on its national executive

He was vice-president of the Soweto Civic Association

He has been repeatedly detained but never convicted in any court of law

In 1985 he was charged with treason — along with 15 other UDF and trade union leaders — and acquitted

Mr Chikane articulates the position taken by a group of church leaders earlier this year that they would defy man-made laws where they conflicted with Christian responsibility and that they stood ready to assume the tasks of organisations which had been restricted by the Government



Dr Max Coleman

Seven-year involvement

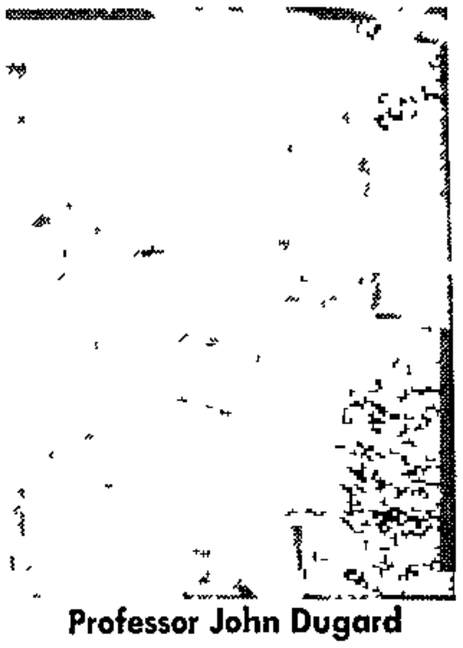
Max Coleman is a founder member of the Detainees' Parents Support Committee and has been closely involved in the monitoring of detentions for the past seven years

A chemical engineer by profession (he has a doctorate in the subject from London's Imperial College), Dr Coleman was drawn into human rights activism when his son, Keith, was detained in 1981 and the DPSC was formed as a mutual-support group for families of detained people

Dr Coleman's work for the DPSC has brought him into close contact with a wide range of political activists — those who have spent time in the cells and so passed through the hands of the DPSC and those involved in organisations which, like the DPSC, fall under the United Democratic Front umbrella

Recently, when the Social Democratic Party of West Germany invited a "representative of the democratic movement" to address its party congress Dr Coleman was the person selected to represent this broad constituency

21/9/88



Professor John Dugard

Worldwide reputation

John Dugard is professor of law and director of the Centre for Applied Legal Studies at the University of the Witwatersrand

A legal academic of international standing, he has taught at a number of top universities overseas

Professor Dugard (52) has long been associated with the fight against the Group Areas Act and helped organise a large body of lawyers in defence of group areas "illegals" in the late 1970s

He acted for the Moutse community in its recent appeal against incorporation into kwaNdebele

He is author of several books, including "Human Rights and the South African Legal Order"

Professor Dugard is also actively involved in the emerging movement for the abolition of the death penalty

He backs the view that ANC members have a claim to being treated as prisoners of war under the 1977 Protocols of the Geneva Convention

He is a past president of the Institute of Race Relations and *South African Journal on Human Rights* co-editor

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Father Mkhatshwa

Detained four times

Smangaliso Mkhatshwa is a Catholic priest who presently heads the Institute for Contextual Theology

He is also parish priest of St Charles Lwanga Church in Soshanguve and a patron of the United Democratic Front

Father Mkhatshwa (49) was ordained in 1965

Five years later he was seconded to the Pretoria headquarters of the Southern African Catholic Bishops' Conference He then studied at the University of Louvain in Belgium where he obtained a B Phil and a Masters degree in theology

He returned to the SACBC in 1974 and spent the next 14 years there

He served two three-year terms as secretary-general of the SACBC and also held the position of secretary-general of the Inter-regional Meeting of Bishops in Southern Africa between 1977 and 1981

Father Mkhatshwa has been detained three times in South Africa and once in the Ciskei He was acquitted of subversion in a Ciskei Court

As a result of alleged torture during his last detention under the emergency regulations of 1986, he has instituted a civil claim for R50 000 damages against the Government

Like Dr Coleman, he is a trustee of the Kagiso Trust

Bills constitute 'massive violation of human rights'

DIANNA GAMES

THE three group areas Bills before Parliament would introduce "emergency type powers" into legislation that had nothing to do with state security, Brian Currin of Lawyers for Human Rights said yesterday.

Currin, speaking at a briefing on amendments to the proposed Bills, said they constituted a massive human rights violation.

The briefing was organised by the Transvaal Rural Action Committee (Trac), Black Sash, Planact and anti-Group Areas Act body Act stop [illegible]

Currin said he was concerned about the wide executive powers given Constitutional Development and Planning Minister Chris Heunis in terms of the Bills. The enforcement of the Bills was also likely to promote political unrest.

The third Group Areas Amendment Bill could be criticised on the same grounds as the first Bill. The wide power it gave the minister put him above the courts, enabling him to eject people occupying premises in breach of the Act without first getting a court order.

The third Bill retained intact two of the most controversial provisions of the first Bill — the shifting of the onus of proving innocence and the dramatic increases in maximum penalties from R400 to R10 000 and from two years' jail to five years for contraventions.

The three Bills are to be debated between all three Houses of Parliament next week at a specially convened short session.

After the briefing, the parties said "It is difficult to imagine any possible justification for the recalling of Parliament, at great expense, to present to it for enactment legislation that is so inhumane and destructive".

The new Group Areas Bill gave the ministry discretion regarding evictions, once again undermining the right of people to open, impartial hearings in independent courts. They said discretion would not be exercised in favour of those living in the "wrong" places, most of whom did not even have the vote.

25/9/88

Body to monitor human rights in SA

THE Human Rights Commission established this week would bring about change in South Africa as well as build for the future, according to Black Sash spokeswoman Mary Burton

Speaking at the launch of the HRC Burton said the HRC marked the 40th anniversary of the United Nations' universal declaration of human rights

The launch, at Wits University, was attended by diplomats, church leaders, and leaders of various legal and civil rights organisations

Five commissioners from the Johannesburg area have been appointed to the HRC, but more appointments are expected

The commissioners are the general secretary of the South African Council of Churches, Rev Frank Chikane, founder member of the restricted Detainees Parents' Support Committee, Dr Max Coleman, director of the Centre for Applied Legal Studieds at Wits, Prof John Dugard, the director of the Black Sash National Advice Office, Sheena Duncan and the general secretary of the Institute for Contextual Theology, Father Smangaliso Mkhatshwa

The HRC intends to investigage and monitor violations of human rights in South Africa with special emphasis on repressive measures exercised by the State through security legislation, emergency regulations and other informal and formal powers It will be guided by the universal declaration of human rights

The information on the degree of respect for – or violation of – human rights in South Africa is to be compiled and made public by the HRC

The founding organations of the HRC are the Black Sash, the Five Freedoms Forum, the National Association of Democratic Lawyers, the National Medical and Dental Association, the South African Catholic Bishops' Conference and the South African Council of Churches - Sapa

CAPE TIMES 26/9/88

Court reports: Possible curbs condemned

252

DURBAN — Wide-ranging proposals by the government to ban reports on certain evidence led during court hearings until judgment has been delivered, have been condemned by politicians, lawyers and journalists

Addressing a meeting of the Association of Law Societies at Badplaas in the Eastern Transvaal, the Minister of Justice, Mr Kobie Coetsee, said it often happened that unfounded or untested allegations were published This caused incalculable damage to the party against whom they were made

Such a person was forthwith condemned in the eyes of the community, notwithstanding the fact that the allegations in question might later be found by the court to be unsubstantiated, the minister said

He said individual rights and those of the community should be weighed up against each other to ensure that justice was done

The SA Society of Journalists said in a statement that it was appalled at the proposal

"The minister knows very well that no newspaper will print all the evidence of the three-week trial at its conclusion How much more so in the case of a three-year trial?

"To prevent the publication of evidence during the course of a trial will as far as the general public is concerned have the effect of holding that trial in camera, and justice will not be seen to be done

"The minister's proposals appear to the SASJ to be a measure aimed at suiting the state as it moves deeper and deeper into crisis rather than the everyday individual on trial"

A Durban senior counsel said the proposals should be opposed "pithily"

"Justice should not only be seen to be done It should also be heard to be done"

Mr Peter Soal, PFP spokesman on information, said that putting a clamp on reportage of court evidence was unthinkable, especially since the press itself was already shackled by emergency restrictions.

The chairman of the Transvaal Bar Council, Mr Michael Kuper SC, said the idea should not be dismissed out of hand

There was merit in further restrictions on court reporting, he said, but this should be left to the discretion of the Bench rather than enforced by law — Own Correspondent and Sapa

or injured in the 6 000-man force — Sapa-AP

tember 16 — Sapa-Reuter

UN eager for implementation of Resolution 435 on Namibia'

Human rights must come first, Reagan tells the UN

STAR 27/9/88

WASHINGTON — Human rights injustices in South Africa and other countries should be the priority concern of the United Nations, US President Ronald Reagan told the UN General Assembly

"It should be a first concern, an issue above others," he said in his valedictory speech as American president to the international organisation in New York yesterday

Starvation in Ethiopia, mass deaths among the Kurds, racial injustice in South Africa, people who could not write or speak freely in the Soviet Union or who could not worship in the Ukraine, people struggling for life and freedom on the South China Sea, and censorship in Nicaragua — all of these issues were more than just an agenda item on the UN's calendar, Mr Reagan said

When human rights concerns were not paramount at the UN, when the Universal Declaration of Human Rights was not honoured in UN halls and meeting rooms, "then the very credibility of this organisation is at stake, the very purpose of its existence in question"

The UN Human Rights Commission had for years practised double standards and cynicism, Mr Reagan said Cuba, a blatant violator of human rights, had escaped censure or even scrutiny for years This year, after a two-year effort led by the US, the commission had pressed Cuban leader Dr Fidel Castro into accepting a probe into human rights abuses there.

Turning in an eight-page address to regional conflicts including southern Africa, Mr Reagan said years of patient diplomacy and support for those Angolans who sought self-determination were having an effect The Reagan administration has for almost three years been militarily aiding the Angolan rebel movement, Unita, in fighting that country's Marxist regime

"We look forward to an accord between the governments of Angola, Cuba, and South Africa that will bring about a complete withdrawal of all foreign troops — primarily Cuban — from Angola," Mr Reagan said.

The Star Bureau and Independent News Service

In a farewell appearance before the United Nations General Assembly, President Reagan hails "a new era of peace" and calls for an international conference to strengthen and expand a 1925 ban on poison gas and chemical warfare.

Eager for 435

The US was eager for implementation of the UN independence plan for Namibia, contained in UN Security Council Resolution 435

He called for new initiatives on chemical weapons and praised the UN Secretary-General, Dr Javier Perez de Cuellar, for his mediation efforts in conflicts around the world Mr Reagan said that because of the warming of relations between the US and the Soviet Union, "the logjam is broken" and peace was coming to the Gulf, Afghanistan and Angola

The US was determined the UN should not suffer the same fate as the League of Nations and was convinced it "should succeed and serve the cause of peace for humankind".

The speech marked a striking transformation for a president who presided over the US withdrawal from several UN bodies, encouraged Congress to hold back dues to the UN, and in 1982 delivered the harshest address yet by an American president to the General Assembly, when he accused the Soviet Union of "ruthless repression" and atrocities

But with an eye to the presidential election and eager not to cause controversy, Mr Reagan avoided mentioning proposed UN involvement in a conference on the Arab-Israeli conflict But he vowed that the US would support Nicaraguan Contras

The president also praised the Security Council for drawing up Resolution 598, the basis of peace talks in the Gulf war

Mr Reagan expressed guarded optimism at talk of peace in several world trouble spots, saying that conflicts around the world were a few years ago burning dangerously out of control "And now the United Nations is providing valuable assistance in helping this epidemic to recede," he added

101 sentenced to hang for unrest incidents

Cape Times 28/9/88 252

Political Staff

A TOTAL of 101 people have been sentenced to death since 1985 for unrest-related offences, the Minister of Justice, Mr Kobie Coetsee told the MP for Johannesburg North, Mr Peter Soal yesterday.

Seventeen of those sentenced to death have been executed, one has had his sentenced commuted, while the cases of the other 83 are still pending.

In a written reply to a question from Mr Soal, the minister said that the information related to people sentenced to death for murder by necklace, burning, stab wounds, stoning and terrorism incidents.

Information for the past four years was:

- 1985 — eight people sentenced to death with six cases pending
- 1986 — 13 sentenced to death, five executed with six cases pending
- 1987 — 48 sentenced to death, four executed with 39 cases pending
- 1988 to September 14 — 32 sentenced to death, eight executed, one sentence commuted with 32 cases pending.

17 hanged for unrest incidents

ARGUS 28/9/88

MORE than 100 people were sentenced to death for unrest-related incidents in the last four years, the Minister of Justice, Mr Kobie Coetsee, said

He was replying in writing to a question in Parliament by Mr Peter Soal (PFP Johannesburg North) about how many people, charged with murder resulting from the so-called necklacing method, had been found guilty, sentenced to death and executed in the years 1984, 1985, 1986 and 1987.

Mr Coetsee gave the following figures· Altogether 101 people were sentenced to death from 1984 to September 1988 — eight in 1985, 13 in 1986, 48 in 1987 and 32 this year

SENTENCE PENDING

The number of people executed totalled 17 — five in 1986, four in 1987 and eight in 1988 One person's sentence was commuted this year

The death sentence was pending in the case of 83 people — six in 1985, six in 1986, 39 in 1987 and 32 in 1988

Mr Coetsee said the information furnished was in respect of persons sentenced to death for unrest-related offences

"Unrest-related offences in this regard includes murder by the so-called necklacing method, burning, stabbing, stoning and terrorism incidents — Sapa.

EMERGENCY UPDATE

Man knifed to death, woman hurt in unrest

PRETORIA. — A man was stabbed to death and a woman was injured in unrest-related incidents, the police public relations division reports

The man was attacked and stabbed to death yesterday by a group in Sweetwaters, Natal, and the woman was injured when a group stoned buses in Klaarwater, Pinetown.

Arsonists set fire to a house in Inanda, Durban, and in Katlehong on the East Rand a man was arrested after he tried to set fire to a house — Sapa

Flats block collapses

MONTEREY (Mexico) — A

Mr Mamba instructed him to hold Mrs Scheepers's hands while he (Mr Mamba) tied her up.

The defence closed its case yesterday and judgment is expected to be handed down today.

Human dignity the key to racial harmony, says prof

28/9/88

Own Correspondent

252

CAPE TOWN — A Bill of Rights alone cannot guarantee racial harmony in South Africa, says human rights academic Professor Laurie Ackermann, of the University of Stellenbosch.

The professor told the annual meeting of the Institute of Race Relations' Western Cape region last night that he stood for a comprehensive Bill of Rights enforced by the Supreme Court, but that fundamental values had to be thought through and human dignity had to be recognised for what it was.

All persons were entitled to basic human rights to enable them to fulfil their potential.

Unique and equal dignity had to be recognised. Lack of this recognition had been a major failing in South Africa.

But a deeper and more subtle malaise made us blame people for being poor and endow only the beautiful with dignity and intelligence

Professor Ackerman asked: "Why do the qualities of kindness, gentleness, honesty and loyalty feature so low on our list of priorities?"

A commission to highlight people's plight

By ANTON HARBER

THE Human Rights Commission (HRC), launched in Johannesburg this week, will bring a renewed focus on detentions, political trials, the treatment of prisoners and Emergency restrictions on meetings, individuals and organisations

The two-year-old State of Emergency has taken a heavy toll not only of human rights, but also on those who have drawn attention to their abuse This has meant less information and less protest about human rights contraventions, particularly since the banning of the Detainees' Parents Support Committee in February

The launch of this high-powered commission — which brings together church, health, legal and political groups who share a concern about human rights contraventions — is intended to change that situation

The five-person team is to highlight human rights issues "with special emphasis on repressive measures exercised by the state through security legislation (and) Emergency regulations" Its brief will be to investigate and monitor all violations of human rights in South Africa.

It will make known its findings through press releases, regular news releases and information sheets, monthly statistical reports, special in-depth reports and an annual report to the founding bodies.

Its guiding document will be the Universal Declaration of Human Rights.

The six organisations that came together to form the commission were the Black Sash, the National Association of Democratic Lawyers, the National Medical and Dental Association, the Southern African Catholic Bishops Conference, the Five Freedoms Forum and the South African Council of Churches

The commission is to develop an ongoing relationship with the United Nations Centre for Human Rights.

The five commission members are the Reverend Frank Chikane, general secretary of the SACC, Dr Max Coleman, an active DPSC member until its restriction; Professor John Dugard, director of the Centre for Applied Legal Studies at the University of the Witwatersrand, Sheena Duncan, past national president of the Black Sash, and Father Smangaliso Mkhatshwa, general secretary of the Institute for Contextual Theology

Monitoring human rights violations: (from left) Smangaliso Mkhatshwa, Frank Chikane and Max Coleman at the commission launch this week in Johannesburg

Picture: ANNA ZIEMINSKI

WMail 25-29/9/83

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Seven men go to gallows in spite of lawyers' plea

The Argus Correspondent

PRETORIA — Seven men were executed at Pretoria Central Prison today and six are believed to be facing execution next week. The men hanged bring to 96 the number of people executed here this year, said a spokesman for the Department of Justice

They were Johannes Nakana, 27, hanged for murdering Mr Jacob Mailula in a quarrel; Sarel Malokase, 31, for murdering Mr Ramogobeng Segaetsho; Nelson Matebula, 45, and John Mlambo, 48, who shot Mr Paulus Fakude; David Madiakgotla, 35, who murdered two girls; Zian Lewis, 19, and Ismail Simons, 22, who stabbed Mr Philipo Mthetheleli to death after he refused to give them cigarettes and money.

Letter to President

Lawyers for Human Rights yesterday made a "passionate plea" to President Botha to declare a moratorium on all executions and to appoint a commission of inquiry.

In a letter delivered to the Union Buildings the organisation said: "The purpose of this petition is not to campaign on behalf of any one or other of the 13 None of the group is known to the national directorate of Lawyers for Human Rights

"Since 1983 approximately 700 people have been executed in South Africa. If all those who are presently on Death Row are executed before the end of the year, the total number of executions over a period of six years will be close to 1 000.

High murder rate

"We have one of the highest murder rates in the world It is frightening that in 1985 the official figure was more than three times that of the United States, which has a population of 240 million people

"Our execution figures are also among the highest in the world. Last year we executed more people than China, which has a population of about two billion According to the Centre for Applied Legal Studies, there have been no executions in Western Europe since 1985."

There was a growing international consensus that the death penalty was incompatible with internationally accepted human-rights standards, the letter said, adding that most Western European and some Latin American countries had abolished the death sentence for all but extraordinary offences such as war crimes

The letter refers the President to an article in the publication Consultus written by Mr J P J Coetzer, SC, of the Pretoria Bar, which concludes that questions on the death penalty have not been investigated for more than 50 years.

"The time has come for such an investigation to be instituted," the article says.

The letter concludes by calling on the President to declare a moratorium on executions and to appoint a commission of inquiry to investigate the high incidence of violent crime and the appropriateness and effectiveness of capital punishment

The Black Sash made a similar call yesterday

decision.

Star 30/4/88

Court rejects killer's appeal

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BLOEMFONTEIN.

The appeal of Henry George Burt, of Pretoria, against his conviction and death sentence for the "necklace" murder of a black policeman on the Hennops River road in the Erasmia area on June 6, 1986, was dismissed yesterday.

Mr Jacob Johannes Boti Ndimande was stationed at the Police College in Pretoria. His body was found by a passing motorist, with a burning tyre still round it.

Burt, who was employed at the Atomic Energy Corporation, was the first white person convicted of a "necklace" murder. — Sapa

Four to hang Tuesday for unrest killing

By PETER AUF DER HEYDE, Grahamstown

FOUR Addo Youth Congress members are part of a group of six people due to be hanged on Tuesday, according to their lawyers.

Seven more people are due to hang in Pretoria today, lawyers believe The departments of prisons and justice release details of executions only once they have been carried out

The Addo four — Similo Wonci, Mziwoxolo Makeleni, Ndumiso Siphenuka and Makhwzana Menze — were sentenced to death in January 1987 after being convicted of murdering an elderly couple in Kirkwood

The trial heard that, at the height of the June 1985 unrest, a group in Addo planned the "Slagboom action" to kill an elderly farmer and his wife

A clinical psychologist, who gave evidence in mitigation of sentence, said the four participated in the crime only because they were threatened with death

However, the judge rejected this evidence Citing the doctrine of common purpose, he found the four guilty of murder without extenuating circumstances

An international campaign has been launched to save the four

- Wonci, 22, the second of six children, was brought up by his maternal grandmother in Kirkwood He left school after Std 3 and has never been employed
- Makeleni, 22, was born in Veeplaas in Port Elizabeth and raised by his grandparents in Addo He left school after Std 5 and worked as a night watchman and a labourer He has been unemployed since May 1985 He has one child
- Siphenuka, 25, was born on a farm in the Addo district. He is single and has two children He was a casual labourer but was unemployed at the time of his arrest.
- Menze, 42, the father of five children, was born in Paterson in the Eastern Cape His family now lives in Addo and his second wife is supporting his children.

He left school at Std 1 He spent several years working as a farm and mine worker At the time of his arrest he was a casual labourer at a hides and skins factory. — Albany News

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W/Mail 30/9-6/10/88

Lawyers ask for court's help

CP Correspondent

THE Grahamstown Supreme Court has reserved judgement in an application by a King William's Town firm of attorneys requesting that a search warrant issued by the SA Police be declared null and void.

Captain K Jones of the Commercial Branch of the SAP visited the offices of Smith, Tabata and Van Heerden at 10am on January 28 with a warrant to look at various documents and books

In an affidavit, one of the partners in the firm, J Smith, said Jones had told him all he wanted was information about the correspondence between their firm and Miller and Co.

Miller and Co are a firm of solicitors in London through which the King William's Town lawyers receive numerous instructions.

Smith, Tabata and Van Heerden asked the court to grant an order restraining the Minister of Law and Order and any of his agents from taking possession of the correspondence, on the grounds that it was protected by attorney and client privileges.

Smith, Tabata and Van Heerden have featured in a number of political trials and their offices were petrol bombed in 1986.

In his affidavit, Jones said that while the firm had not been accused of any offence, the partners were aware of a possible contravention of the Fund Raising Act.

He said allegetions that the matter was urgent because of the threatened removal of books by the SAP were misleading and incorrect. – Ano

THE JUDICIARY

Judging the judges

The SA judiciary, particularly the Appellate Division, came in for stern criticism at an Institute for a Democratic Alternative for SA (Idasa) conference last weekend in Cape Town The "Democracy and the Judiciary" conference was addressed by a mixture of academics and practitioners — but there were no sitting judges present Fortunately, one retired judge president added some valuable perspective

The consensus was that, with some honourable exceptions, the judiciary is doing a dismal job of upholding human rights in SA Unisa's Professor Adrienne van Blerk — author of *Judge and be Judged* — reiterated her belief that liberal critics of the judiciary often voice opinions which are loose, unwarranted, or both But she was out of key with conference opinion

The charge that the Appellate Division has, in the words of one speaker, been particularly "supine" of late, was backed by analysis of two judgments delivered last month — *Staatspresident vs Release Mandela Campaign* and *Staatspresident vs UDF* Both cases have significant implications for administrative law in SA

Laws on giving evidence relaxed

M6u's 3/10/88

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Court Reporter

HUSBANDS and wives may now be subpoenaed to give evidence against each other in criminal cases

This is one of several amendments to the laws relating to evidence announced by the Department of Justice.

The new Law of Evidence Amendment Act of 1988, which comes into operation today is based on recommendations made by a South African Law Commission investigation.

The provisions include:

- The general rule concerning the evidence of husbands or wives against each other has been relaxed This will in future be allowed in criminal procedures, which means that a wife can be subpoenaed to testify against her husband and vice versa

In the past, spouses were called to give evidence against each other only in matters involving child abuse, bigamy, incest, abduction or contraventions of the Childrens' Act, the Maintenance Act or the Defective Women's Protection Proclamation.

Now if, for example, a husband brings home stolen goods and stores them in a cupboard, his wife can be called on to testify

- In civil cases divorced spouses can now refuse to testify against each other
- South African courts may now take judicial notice of the laws in other countries without having to test this evidence
- Hearsay evidence may now be admitted, at the discretion of the court, without bringing the person being quoted to court to testify if that person consents

Back from death row

TWO members of the National Union of Mineworkers who were released at the weekend yesterday told of the horror of their 19-month stay in death row at the Central Prison in Pretoria.

Both men said they were still "shocked" by their sudden release at a time when they had given up hope of ever walking free from the hangman

The two are Mr Tsietsi Paulos Tshehlana (30), a Lesotho citizen from Quthing and Mr Solomon Nongwati Mcwabe (47), from Matatiele in Transkei Both men are married and have children

Mr Tshehlana said he has not yet seen his only son, Rethabile who was born on April 2, 1986, two months after he was arrested He heard about the child from his wife, Mmanthabeleng, who visited him during his stay in the death row

Mr Mcwabe, who has two children aged two and six in Transkei, said "I am unable to shake off my death row experience I was so frightened when told to go home by prison officials I am still frightened and cannot believe I am free At least until I am back home in Matatiele"

Both men thanked NUM officials and members for the support they received while in prison

The men were sentenced to death on a charge of murder in Klerksdorp in April, 1986 The case was a sequel to the unrest that flared at the Vaal Reefs gold mine hostels early in 1986 Mr Mcwabe had worked at the Vaal Reefs mine for 22 years and has 26 years' mining experience Mr Tshehlana had six years' mining experience and was an NUM shopsteward at the Vaal Reefs mine

They would both like to return to work at the mine after a rest at home The NUM assistant general secretary Mr Marcel Golding said the union was happy that its members had been released

He said the NUM would make representations to the mines to re-employ the men and pay them for the time they had spent in prison because they have been "cleared" of the charges pressed against them.

Mr Mcwabe and Mr Tshehlana were to leave for their homes late yesterday

SA execution toll unprecedented, says Amnesty

Star 5/10/88

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LONDON — The death penalty was used in South Africa on an "unprecedented scale" in 1987, the Britain-based human rights group, Amnesty International, says in its annual report published today.

The report records 164 executions in Pretoria Central Prison during the year All those executed were men and all but nine were black

The report says "Other executions were believed to have taken place in the nominally independent homelands At least two of those executed were sentenced for a politically motivated killing."

Amnesty also voices concern over the "hundreds of prisoners of conscience, including children, who were held on account of their non-violent opposition to apartheid"

In Namibia, says Amnesty, there was graphic new evidence of the torture of political detainees

Many people were reportedly detained without charge or trial in 1987, including a number of prisoners of conscience.

These included prominent members of Swapo's internal wing, trade unionists, teachers and others, particularly in the north, who were suspected of supporting Swapo rule.

Several long-term political prisoners continued to be held without trial in Zimbabwe although a number were released in 1987.

Dramatic reprieve for killer

Cape Times 5/10/88

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PRETORIA. — After a Durban man's 11th-hour application to stay his scheduled execution was dismissed late on Monday night, he was granted a dramatic reprieve hours before he was to meet the hangman's noose yesterday.

However, the application of a second man, Michael Vusi Mnisi, for a stay of execution was dismissed by Mr Justice C F Eloff, the Acting Judge President He was hanged yesterday morning

Mnisi, of KwaNdebele, was convicted on a charge of murder along with the "Addo Four" (Addo Youth Congress).

The four received a stay of execution of one month in the Rand Supreme Court on Friday They were convicted in January last year of the murder of an elderly Kirkwood, Eastern Cape, couple

Mnisi was sentenced to death in the Warmbaths Circuit Court in March He beat a Warmbaths farmer, a Mr Pretorius, to death with a 14-pound hammer

The execution of the Durban man, Raymond Jabulani Chozi, was postponed by the court "indefinitely" for a decision by the Minister of Justice, Mr Kobie Coetsee, according to a Department of Justice spokesman

Chozi brought an application on Monday night for a stay of his execution He was given a double death sentence last year for the murder of two men.

Mr Justice Eloff said it was idle to suppose that a new or better petition to the State President would be necessary as all condemned peoples' trial records were considered by several people, including the Minister of Justice, before the condemned man was executed He dismissed the appeal

However, hours later the Minister of Justice, Mr Kobie Coetsee, granted Chozi a stay of execution

Hours before he was due to hang

A MAN who was due to hang yesterday morning for the murder of two people, was granted a reprieve by the Minister of Justice a few hours after his application for a stay of execution was dismissed by the Pretoria Supreme Court.

Star 5/10/86

Raymond Jabulani Chozi (32), was sentenced to death twice by Mr Acting Justice Squires and two assessors in the Durban Supreme Court in September last year for the murder of a former secretary of the Natal Boxing Board and a former boxer

A spokesman for the Department of Justice in Pretoria yesterday confirmed that Chozi, who was due to hang yesterday morning, was granted a stay of execution by the Minister in the early hours

Chozi and another condemned man, Michael Vusi Mnisi, had their urgent applications for a stay of execution rejected by Mr Justice Eloff, Acting Judge President of the Transvaal, in the Pretoria Supreme Court shortly before midnight on Monday

Mnisi, who was sent to the gallows by Mr Justice van Dyk on March 31 this year for the murder of a white farmer with a hammer, was hanged yesterday morning A spokesman for the Sheriff in the Pretoria Supreme Court confirmed the execution

Mnisi sought a stay of execution after submitting that his pro-deo counsel had not asked for leave to appeal and that no petition was directed to the State President to exercise the prerogative of mercy in his favour

The spokesman for the Department of Justice said she did not know the reasons why the Minister granted only Chozi a stay of execution so that he could petition the State President She did not even know for how long the reprieve would last

Rejecting Chozi's application on Monday night, Mr Justice Eloff said Chozi had earlier petitioned the State President but now gave an impression that he never did

Mr D P van der Berg, who appeared for the respondent argued that Chozi was trying to mislead the court

DEATH ROW MAN GETS REPRIEVE

Professor paints gloomy picture of SA law

Judiciary accepts limitations 'too easily'

Star 6/10/88

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CAPE TOWN — The message emanating from the highest court in South Africa, the Appellate Division, was that in the area of state security the courts were not prepared, and did not regard it as their function, to guard the interests of the individual, Mr Hugh Corder, professor of public law at the University of Cape Town, said here yesterday

Delivering his inaugural lecture he said it appeared that the courts were not prepared to perform their common law duty of control in the sphere of perceived "state security"

Greatest threat

It was precisely in this area that executive discretion represented the greatest threat to the life and liberty of the individual

Citing a number of Appellate and Supreme Court decisions he said that while there had been a number of successful challenges to the emergency and security situation up to the end of 1986, there could be little doubt today that the balance had swung utterly in favour of a return to the hands-off approach of the 1960s, when the judiciary abdicated its role as a source of legal control over executive power.

While there could be no doubt that the South African legislature and executive were the sources of many of the shackles on the judicial process, there was equally little doubt that the judiciary had been too easily prepared to accept such limitiations and to add a few of its own making

In other words, judicial activism and creativity had been used on occasion to further State lawlessness rather than inhibit it.

The facet of the judical function most harmed by the events of the past half-century in SA was the idea of the desirability (if not necessity) of an independent arbitral force in society, a watchdog over those who wielded public power

The passage into statute of the 1983 Constitution and its record in practice had witnessed a massive shift away from control of executive action through the legal form, or rule of law

The judicial unwillingness to question executive discretion in its most virulent form had contributed substantially to the devaluation of the courts' contribution to the achievement of this concept

Over the past 20 years mainstream legal practice had become increasingly sophisticated, ludicrously expensive and utterly irrelevant to the person in the street

Although he had painted a somewhat gloomy picture of the law and perceptions of it in SA today, he could not accept that the days of the rule of law in this country were numbered.

Exploit

It was his contention that judges, practitioners, academics and students should exploit to the full the contradiction between the courts' obedience to the will of Parliament or the executive on the one hand, and to the baisc tenents of the common law on the other.

Just as lawyers constructed the apartheid legal order, by drafting Acts and regulations, voting for them in Parliament and prosecuting, defending and judging in terms of them in courts, so also should those lawyers who cared

basic values of common law work to subvert the apartheid order — Sapa

Law Society opposes curbs on court reports

Star 7/10/88. 252

CAPE TOWN — The Law Society of the Cape of Good Hope says the proposed restrictions on court reporting are an "unwelcome and unwise" incursion into the system of the administration of justice in South Africa

The society said the public's right to be kept informed of current court proceedings would "fall into disuse" if the restrictions were imposed

The Minister of Justice, Mr Kobie Coetsee, recently announced that the possibility of precluding the publication of evidence led at a trial, prior to judgment, was under consideration

Mr Coetsee said unfounded or uncontested allegations made during the course of a trial were published before the court had an opportunity of judging the accuracy of such allegations. This, Mr Coetsee said, could cause "incalculable damage" to persons affected by the evidence

SAFEGUARD

The Law Society said that generally speaking the media provided well balanced reporting on court proceedings

In those instances where this was not the case, there was a safeguard to be found in the role played by the Media Council and the media obligation to publish rectification of any report falling short of acceptable reporting standards.

"While the Minister is correct in saying that, in considering this restriction the rights of the individual must be weighed up against the rights of the public 'to ensure that justice is done', it is the society's view that the harmful effects that such a restriction will have on the public at large, will far outweigh any possible intrusion into the individual's privacy," the society said

Much of the credibility enjoyed by South African courts was to be found in the fact that, with certain exceptions, court proceedings were conducted openly for all those who wished to attend and observe.

Those unable to attend could also rely on the publication of such proceedings through media reporting.

There were instances when publication might not be in the public interest but the South African legal system already catered adequately for such instances where publication of the proceedings was, usually in the discretion of the court, totally or partially restricted

"The restriction under consideration will fetter this judicial discretion and thereby, in the society's view, reflect adversely on the standing of our courts

"Quite apart from the illogicality of, on the one hand, allowing the public to attend most court proceedings but, on the other hand, delaying publication of these proceedings, very few, if any members of the public will have the interest or inclination at the time of publication of a judgment, to consider such evidence as may then be published," said the society — Sapa

Professor's gloomy picture of SA law

Judiciary accepts limits 'too easily'

Star 7/10/88

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(252)

CAPE TOWN — The message emanating from the highest court in South Africa, the Appellate Division, was that in the area of state security the courts were not prepared and did not regard it as their function to guard the interests of the individual, Mr Hugh Corder, professor of public law at the University of Cape Town, said on Wednesday.

Delivering his inaugural lecture, he said it appeared the courts were not prepared to perform their common law duty of control in the sphere of perceived "state security"

It was precisely in this area that executive discretion represented the greatest threat to the life and liberty of the individual

He cited a number of Appellate and Supreme Court decisions While there had been a number of successful challenges to the emergency and security situation up to the end of 1986, there could be little doubt that the balance had swung to the hands-off approach of the 1960s, when the judiciary abdicated its role as a source of legal control over executive power

There could be no doubt that the South African legislature and executive were the sources of many of the shackles on the judicial process, he said

There was equally little doubt that the judiciary had been too easily prepared to accept such limitations and to add a few of its own making

Lawlessness

Judicial activism and creativity had been used on occasion to further State lawlessness rather than inhibit it

The facet of the judical function most harmed by the events of the past half-century in South Africa was the idea of the desirability (if not necessity) of an independent arbitral force in society, a watchdog over those who wielded public power

The passage into statute of the 1983 Constitution and its record in practice had witnessed a shift away from control of executive action through the legal form, or rule of law

The judicial unwillingness to question executive discretion in its most virulent form had contributed substantially to the devaluation of the courts' contribution to the achievement of this concept

Over the past 20 years mainstream legal practice had become increasingly sophisticated, expensive and utterly irrelevant to the person in the street

Although he had painted a somewhat gloomy picture of the law and perceptions of it in South Africa today, he could not accept that the days of the rule of law in this country were numbered

It was his contention that judges, practitioners, academics and students should exploit to the full the contradiction between the courts' obedience to the will of Parliament or the executive on the one hand, and to the baisc tenents of the common law on the other

Just as lawyers constructed the apartheid legal order so also should those lawyers who cared about the basic values of common law work to subvert the apartheid order — Sapa

CAPITAL PUNISHMENT (252)

No stay in SA

The seven men who went to the gallows at Pretoria Central last week brought to 460 the number of executions in SA in the past three years. While the lobby against the death penalty grows apace, the country continues to be among the world leaders in meting out capital punishment.

One such lobbyist is the Save the Patriots Campaign, which has deplored the dearth of

7/10/88

information available to the public on the fate of those on death row The group learned of the imminent execution of 13 prisoners less than 24 hours before the first seven were due to hang It believes it could have been instrumental in effecting a stay of execution had the notice been more timeous

Cited as another barrier to intervention is the fact that action appears to be limited by the Department of Justice to relatives or those directly involved with the condemned Coupled to this is the difficulty of assembling the personal details before application is made to the courts.

After the latest hangings, the Johannesburg Supreme Court granted stays of execution to four members of the Addo Youth Congress sentenced for murder. Of the four, one was found to be two years younger than was thought at the time of his trial, while public and international pressure appears to have influenced judgment on the other three At the time of going to press, the Pretoria Supreme Court is considering applications for a stay of execution on another two men

Though political offenders are in the minority, the pace of judicial killings in SA has increased relentlessly in the last 10 years. Figures reached an all time high last year, with 164 hangings and 267 prisoners still waiting in death row.

The lobby against capital punishment is not confined to the area of political convictions. However, lobbyist spokesmen claim the line between politically motivated crimes and those merely related or peripheral is a blurred one at best.

Hours before last week's executions, Lawyers for Human Rights (LHR) made a general representation to the State President requesting that a commission be established to investigate the high incidence of violent crime in SA, as well as the advisability of continuing executions at a time when the anti-capital punishment lobby worldwide is stronger and better respected than ever before

Sadly, the LHR failed in its bid. ■

(252) WMAIL 7-13/10/88

A heavy toll for civil rights cases

Almost every judgement setting aside an Emergency regulation, has been overturned on appeal

CARMEL RICKARD reports

VIRTUALLY every supreme court ruling setting aside all or part of any Emergency regulation has been overturned on appeal, according to human rights lawyers.

The Bloemfontein Appeal Court is thus taking a heavy toll on civil rights judgements of the supreme court provincial divisions dealing with Emergency laws

Lawyers have criticised the Appellate Division (AD) for consistently preferring to interpret law and Emergency regulations in a way favouring the state rather than the individual

Delivering his inaugural lecture in Cape Town on Wednesday, Hugh Corder, professor of public law, said there had been a swing back to the hands-off approach of the judiciary in the 1960s, when the bench had abdicateds its role as a source of legal control over executive power.

While there had been a number of succesful challenges to the Emergency and the security situation up to the end of 1986, the balance had swung since then, he said

It appeared the courts were not prepared to perform their common law duty of control in the sphere of what they perceive as "state security"

The message from the highest court was that it was not prepared, and did not regard it as its function, to guard the interests of the individual — at least in the area of state security, he said

This speech came only one day after a Natal judge broke traditional judicial silence to speak out on the issue

Mr Justice John Didcott, one of the judges whose decisions have been reversed by the AD on several occasions, delivered a hard-hitting paper commenting on the state of the law in this country

Presenting the second Ernie Wentzel Memorial lecture at Wits University, he said the country was in many senses lawless, not just because of rampant violence and crime but also in that power was exercised "lawlessly"

Explaining the origin of this "lawlessness", the judge said, "The legislature, not a democratic one in the first place since it does not represent or speak for the large majority of South Africans, has statutorily delegated to the executive the power to make laws by regulation and decree

"This the executive has done voraciously, intensifying the evil of imprisonment without trial, restricting wholesale our freedom of speech, assembly, movement and association and the freedom of the press and often entrusting to its mere underlings decisions with the same consequences

"Judicial endeavours have been made to keep the process under some sort of control by the law and to harmonise its workings with the law's requirements, as far as that could be managed.

"And this has been attempted by no wild unorthodoxy, by no splurge of adventurism, but by invoking and applying tried and trusted rules of administrative law common to our legal system and others, rules developed with the very object of safeguarding the rule of law in such a situation."

Then, commenting on the role of the Appeal Court, the judge added, "Sad to say, these efforts have proved to be largely in vain, the Appellate Division in its wisdom having decided in case after case that has come before it during the past couple of years that the capacity of the courts to assert and protect the rule of law in that situation is so attenuated as to be, for all practical purposes, insignificant

"The cause of all the trouble, of course, has been the enabling legislation passed in the first place, which according to the construction authoritatively placed on it by the Appellate Division, ousts the jurisdiction of the courts from most of these matters and gives the executive virtual carte-blanche

"The result is a society where, throughout the areas under discussion, what matters, what counts, is no longer the law, but sheer unbridled power. And the outcome must inevitably be abuses of it."

Last month, the AD handed down a ruling on two significant Natal cases, overturning judicial decisions made by three judges, Mr Justice N Page, Mr Justice B Galgut and Mr Justice R Leon, that certain key Emergency regulations were invalid.

The AD ruling, the latest in a succession of pro-executive decisions, was greeted with dismay by laywers Leading civil rights lawyer Ismail Mahomed SC told the judge in a case heard soon after the ruling was handed down that the AD judgement was "binding even if not persuasive".

And in the first Natal judgement made after these AD decisions, Mr Justice David Friedman spoke of his regret at the effect of the decision — that he could not even consider the application before him challenging other Emergency regulations

He said he used the word "regret" deliberately as it was one of the traditional roles of the court to act as a watchdog against executive excesses in the field of subordinate legislation

In his speech, Corder pointed a finger at both lawyers and the judiciary. The legislature and executive were responsible for many of the shackles on the judicial process, he said, but the bench itself had been too easily prepared to accept these limitations — and add a few of its own making.

In other words, he said, judicial activism and creativity had been used on occasion to further state lawlessness rather than inhibit it

The unwillingness of judges to question the government had contributed substantially to the devaluation of the court's contribution to the rule of law.

In the past 20 years, he said, mainstream legal practice had become increasingly sophisticated, ludicrously expensive and utterly irrelevant to the man in the street

However, he held out some hope Judges, practitioners, academics and students should exploit to the full the contradiction between the court's obedience to the will of parliament or the executive on the one hand, and to the basic tenets of the common law on the other, he said.

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APARTHEID BAROMETER

AMNESTY INTERNATIONAL REPORT 1988

THE following is a summary of the South African section of the 1988 report of the international human rights organisation, Amnesty International, published in London this week. The word "censored" indicates parts of the report that fall foul of Emergency regulations. "Independent homelands" are excluded from these restrictions.

Hundreds of prisoners, including children, were held on account of their non-violent opposition to apartheid. Thousands of people were detained without charge or trial under State of Emergency regulations, or under security laws permitting indefinite incommunicado detention without trial.

There were renewed reports of the (censored) of prisoners, particularly political detainees held without charge, and deaths in custody under (censored) circumstances.

Many people were prosecuted for alleged political offences and it was common at such trials for detainees who had not been charged to be compelled to give evidence as state witnesses.

In a number of court cases, both defendants and witnesses under detention complained of torture or ill-treatment.

The number of people executed increased to an unprecedented level and many new death sentences were imposed. There were 164 executions in Pretoria Central prison and hangings were also reportedly carried out in Transkei and other nominally independent "homelands".

Critics and opponents of the government were attacked by so-called "vigilantes", allegedly (censored) to the security forces or acting with (censored), who were responsible for a number of killings.

Several ANC activists based in Swaziland were also killed. The ANC and Swazi authorities accused South African security forces of (censored).

Many hundreds of prisoners of conscience were detained under the Emergency regulations in 1987. Some were held for relatively short periods but others remained in custody without charge throughout the year.

There were numerous reports that Emergency detainees were held in severely (censored) and subjected to (censored).

Many children were also among those detained. In April, the government acknowledged that 1 424 of 4 224 detainees then held under the Emergency regulations were under 18.

In early October, 41 children were released from detention. Sixty-nine others, including one aged 15 and 16 aged 16, then remained in custody under the Emergency regulations, according to the minister of law and order.

Thirteen children were also among more than 200 people held incommunicado under the Internal Security Act at the end of July, according to official figures. One was under 15 but his identity was not disclosed.

In exceptional cases, evidence could be produced to show that Section 29, despite its wide-ranging nature, had been abused. Court action in these cases resulted in the release of detainees.

Many politically-motivated arrests also occurred in the so-called homelands. In Venda, for example, those held included the Reverend Tshenuwani Simon Farisani, a Lutheran Church dean and victim of torture. Arrested in November 1986, and detained incommunicado, he went on a hunger strike at the beginning of January. In a letter smuggled from prison, he alleged his life had been threatened by a security policeman who tortured him during a previous detention. Farisani was freed unconditionally on January 30.

(Censored) of prisoners, particularly political detainees held without charge, remained common and widespread. There were persistent reports of detainees, including children, being (censored), a method of (censored) which leaves no marks.

Many detainees were held in prolonged (censored) and allegedly (censored) to themselves or their relatives and (censored) by security police interrogators. For example, Father Casimir Paulsen, a Roman Catholic priest, testified after his release from 85 days detention in Transkei that he had been stripped naked, handcuffed and partially suffocated by security police who repeatedly thrust his head into a bag filled with water. He was released without charge and never informed of the reason for this detention. He said other detainees in Transkei had received even more prolonged torture. In another case, 22 young people, including children aged 14, were (censored) by (censored) at Petrus Steyn.

Further evidence of (censored) in 1987 emerged at a number of political trials and at several inquests into deaths of detainees. In June, a magistrate ruled that 10 Lebowa "homeland" police had caused the death in 1986 of Makompo Kutumela, a Black Consciousness activist. He had received at least 41 sjambok blows and had been denied medical treatment before his death.

In August, another inquest ruled that Peter Nchabeleng, a United Democratic Front leader and former political prisoner, had been beaten to death by Lebowa police in April 1986. Neither case, however, was known to have resulted in prosecution by the end of 1987 of the police officers responsible.

At least two detainees held under Emergency regulations and one held under Section 20 died in custody in 1987. Ashley Kriel, an alleged ANC guerrilla, died in (censored).

There were many political trials in 1987. Some of the legal proceedings were marred by serious (censored).

There were new allegations that police and other security forces (censored), as in the case of Ashley Kriel, or (censored) attacks on government opponents by so-called "vigilantes". It was also reported that police (censored) even when sworn affidavits were presented to them.

Saved from the gallows: mineworkers Solomon Nongwati and Paulos Tshelahe

Spared the noose, but seven others hang

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WMAIL 7-13/10/88

By MUSA ZONDI

"I DON'T know whether I'm alive or just a ghost," exclaimed Mangaliso Nongwadu last Saturday, a day after he had been saved from the gallows following a successful eleventh-hour appeal.

Nongwadu was one of six former miners at the Vaal Reefs mine in the Western Transvaal who were sentenced to death on May 12 last year.

They were convicted of murdering four fellow-miners alleged to be management spies. Following an appeal, three of the men — Nongwadu, Tsietsi Sehlana and Edward Masike — had their conviction and sentence set aside.

Two of their co-accused, Siphiwe Mbalombaka and Frans Makhanya, had their sentences commuted to 10 and 15 years' imprisonment respectively.

However, the appeal of one of the original six, Tyelovuyo Mgedezi, was unsuccessful. A further appeal will be heard this week.

On the same day that Nogwadu and Siehlana were reprieved, seven people were hanged in Pretoria. Four Addo activists who were due to hang on Tuesday were granted a stay of execution.

Similo Wonci, 22, Mziwoxolo Makeleni, 22, Ndumiso Siphenuka, 25, and Makhwazana Menze, 42, were given a one-month reprieve to "seek further remedy".

An Amnesty International report released this week says 164 people were executed in Pretoria Central Prison this year.

SHARPEVILLE SIX SWING SPOTLIGHT ON SA

Executions awkward issue for PW

W/E ARGUS 8/10/88 25'2

By FRANS ESTERHUYSE
Political Staff

SOUTH Africa's execution figures, said to be among the highest in the world, could become an awkward side-issue for President Botha if he is to extend his Africa initiative to Europe and elsewhere in the world.

The world spotlight has been focused on this issue by the hitherto uncertain fate of the Sharpeville Six who have been on death row for more than 1 000 days

In Europe, where most countries have abolished the death penalty, all the member states of the European Community (EC), except Britain, have threatened tough new sanctions if the six are hanged

Meanwhile, mounting international pressure has been put on President Botha to grant clemency to the condemned six, with appeals in recent months from all the major Western leaders, the United Nations and church and trade union groupings world-wide

Raised by Mobutu

The issue of the Sharpeville Six was one of the matters raised by Zaire's President Mobutu Sese Seko during President Botha's talks with him last weekend

President Botha indicated that this question would be examined after judicial processes which had not been resolved had come to an end, according to an official communique issued after the talks

The Appellate Division of the Supreme Court recently reserved judgment on the Sharpeville Six's application for leave to appeal against the dismissal of an application to reopen their trial

The six, five men and one woman, were found guilty of having had common cause with a crowd that murdered the deputy mayor of Lekoa, Mr Jacob Khuzwayo Dlamini, on September 3, 1984

"Passionate plea"

The wider issue of South Africa's high execution figures was raised by Lawyers for Human Rights last week in a "passionate plea" to President Botha for a moratorium on all executions and for the appointment of a commission of inquiry into capital punishment

The organisation's national director, Mr Brian Currin, said this week that no response had so far been received to the plea, made in a letter to President Botha.

The letter said that since 1983 about 700 people had been executed in South Africa If all those now on death row were executed before the end of this year, the total number of executions over a period of six years would be close to 1 000.

South Africa had one of the highest murder rates in the world, more than three times that of the United States which had a population of 240-million people

South Africa's execution figures were also among the highest in the world Last year South Africa executed more people than China which had a population of 2-billion

President Botha was told that according to the Centre for Applied Legal Studies there have been no executions in Western Europe since 1985.

Although the death penalty remained in force in most countries of the world, there was an international trend towards abolition

Most West European countries had abolished the death penalty for all offences or for all but certain extraordinary offences such as war-time crimes

Long tradition

Latin America had a long tradition of abolition Nicaragua, Brazil, Argentina and El Salvador had all abolished the death penalty since 1979.

Three years ago Australia became the 28th country to abolish the death penalty for all offences

"We are deeply concerned about the fact that South Africa appears to be moving against the international trend," the letter said

Gaggings and jail, torture and death

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Cpress 9/10/88

Despite the fact that gross violations of basic human rights continue 40 years after the United Nations adopted the Universal Declaration of Human Rights, Amnesty International rejects cynicism about the Declaration and says there is a genuine worldwide human rights movement.

THE international community declared 40 years ago – for the first time in history – that every human being has inalienable rights. The Universal Declaration of Human Rights committed governments to respect these rights in their own countries and to promote them throughout the world.

Amnesty International, the worldwide voluntary human right movement, monitors human rights violations and reports that in at least half the countries of the world people are locked away for speaking their minds.

A report published this week titled *Ugly Picture* – of worldwide human rights violations – states that men, women and children are tortured and ill treated.

The organisation said last week that "while all states in the United Nations formally supported the Universal Declaration of Human Rights many considered its ideals subversive and killed, tortured and imprisoned people trying to defend them."

In its latest report, it says:

- In at least half the countries of the world people are locked away for speaking their minds, "often after trials that are no more than a sham".
- In more than a third of all nations men, women and even children are tortured by government officials.
- In scores of countries, governments pursue their goals by kidnapping and murdering their own citizens.
- More than 120 states have written into their laws the right to execute people convicted of certain crimes, and more than a third carry out such "premeditated killings" every year.

Despite such facts, amnesty rejects cynicism about the Universal Declaration. It says a genuine worldwide human rights movement of more than a thousand organisations exposing governments to the glare of international publicity exists.

"Today, even one death can set off waves of anger and protest worldwide," the report says. "The torture and death in 1987 of one student in South Korea – Park Chong-Chol – led to publicity that was followed by the arrest of police officers and the resignation of government ministers. It doesn't always happen but it can."

The 278-page annual report with detailed entries on 135 countries – the highest number ever – covers 1987. It summarises the movement's efforts to stop the imprisonment of people for their ideas and campaigns against unfair political trials, torture and the death penalty.

The report shows that during 1987 prisoners of conscience were held in at least 80 countries and that torture or ill-treatment of prisoners was reported in at least 90.

By region, countries holding prisoners of conscience during 1987 included, in **Africa** Chad, Ethiopia, South Africa and Kenya. In the **Americas** Bolivia Cuba, Nicaragua and Peru. In **Asia** China, Singapore, South Korea, and Thailand. In **Europe** Czechoslovakia, Greece Turkey and the USSR. In the **Middle East and North Africa** Iran, Iraq Israel and the Occupied Territories and Morocco and the Western Sahara.

The scores of countries in which torture and ill-treatment were reported included Burundi Kenya Somalia and Zaire Brazil Chile Haiti and Honduras, Burma China India and Sri Lanka Poland Spain Turkey and Yugoslavia and Algeria Egypt Lebanon and Syria.

Thousands of people fell victim to gross human rights violations by clandestine groups linked to government forces with so-called "death squads" particularly active in Latin America.

Extra-judicial executions by government forces were also widespread, with hundreds reported in Iraq and Sudan. Among many other countries where such killings were reported were the Philippines Namibia and Peru.

During 1987 more than 760 prisoners were executed in 39 countries and nearly 1 200 were reported sentenced to death in 62 countries. The report says these are minimum figures – the true totals being almost certainly higher.

At least 132 executions were reported in China, 164 in South Africa and 158 in Iran. Among countries with large "death row" populations was the United States, with 1 982 such prisoners.

Amnesty International last year initiated 373 urgent appeals on behalf of more than 2 000 people in 82 countries.

At the beginning of this year there were sections of the organisation in 47 countries and 3 863 volunteer groups worldwide. There were more than 700 000 members and subscribers in over 150 countries.

The organisation stresses its impartiality and points out that it does not work against governments only human rights violations. It neither supports nor opposes any political social or economic system and applies a single human rights standard to all countries.

In South Africa the report states there were renewed reports of ill-treatement of prisoners particularly political detainees and deaths in custody under suspicious circumstances.

Torture and ill-treatement were also reported in Benin Burkina Faso Burundi Congo, Comoros, Gabon, Guinea Bissau, Kenya, Mauritania Namimbia Senegal, Seychelles Sudan Uganda Zaire and Zambia.

In Zimbabwe the improvement in the police treatment of prisoners noted in 1986 continued through 1987 although there were reports of torture of prisoners in the custody of the Central Intelligence Organisation.

Human rights violations flood the world

SA govt's salary bill set to jump 20%

Cape Times 11/10/88 252

From GRETA STEYN

JOHANNESBURG — Government's salary bill was expected to jump by an effective 20% in the next calendar year compared with 1988, possibly thwarting efforts to contain consumer spending

Economists said the 22% raise teachers would receive, the 15% given to the rest of the civil service plus general notch increases would lead to an eventual pay hike of 20% in 1989

Trust Bank economist Nick Barnardt said "It is worrying that we can expect a real increase of between 5% and 6% in civil servants' pay next year at a time when consumer spending should be contained

"But I am hoping that there will be other compensating action to ensure that fiscal policy remains restrictive"

Even if government manages to cut back in certain areas, as it says it wants to, economists believe it has no hope of meeting its targeted spending of R53,87bn for fiscal 1988/89

Barnardt estimates spending will exceed the budget target by just over R2bn, flowing from the extra spending on salaries, additional aid for agriculture and the possibility of higher defence expenditure

The current fiscal year would then continue the pattern set in the past decade, with actual spending overshooting budget targets by a few percentage points

However, latest figures in the Government Gazette indicate government got off to a disciplined start in the first five months of the current fiscal year

Spending from April to August amounted to R21,26bn — 12,9% up from the same period in 1987 and slightly higher than the forecast increase of 12,6% for the full fiscal year

With 40% of the total budget spent after five months, economists said government had been on the right track.

Much of government's sound performance so far can be ascribed to lower-than-expected defence spending

Spending on defence in the first five months of the fiscal year was lower than in the corresponding period in 1987/88, at R2,64bn this year compared with R2,66bn in 1987

Since defence spending is known to be erratic, it could rise later in the fiscal year

On the revenue side, economists expect the budget target of R44bn to be exceeded by about R1bn with government cashing in on higher GST because of strong domestic spending

Revenue, at R17,08bn, was almost 20% higher than after five months of the previous fiscal year — well above the targeted increase of 16,3% for the full fiscal year

CAPE TIMES 14/10/88 252

Six hangings; SA executions 103 for year

JOHANNESBURG — Six death row prisoners were hanged in Pretoria yesterday.

The Department of Justice confirmed the hangings of two blacks and four coloured men They were convicted on murder and rape charges and not for political crimes, a department spokeswoman, Ms Amanda Haasbroek, said

The number of people executed in SA this year is now 103, she said

One of the condemned men, Tholi Selby Nguni, applied unsuccessfully for a stay of execution in the Pretoria Supreme Court hours before he was due to be hanged

Of the 103 executed, 70 were black, 32 were coloured and one white, and all were men, Ms Haasbroek said

The six executed yesterday included four men from the Cape convicted for the repeated rape and murder in 1985 of a 67-year-old Malmesbury woman whose body was found dumped in a nearby well

Human rights activists estimate that more than 250 people are on death row, including at least 50 condemned to die for politically-linked crimes

Alpheus Banda, 29, was executed for the January 25, 1987 killing of Mr Joseph Mkgwanazi, 22, and Mr J F de Peuter, 50, both shot and beaten with a hammer in Vanderbijlpark.

Selby Mnguni, 28, was executed after convicted for the 1987 murder of a 64-year-old woman in Durban whose body was found a week later in a shallow grave

A spokesman for Lawyers for Human Rights called the sentences "Barbaric" and said all death sentences should be commuted for extenuating circumstances

"One regards the present situation in our country as an extenuating fact itself," said Mr Aubrey Lekwane

The four Cape Town men hanged were, Damos Willemse, 24, Japie Samuels, 22, Willem Loos, 21, and Abraham Koelman, 22 — UPI and Sapa

A call to salvage the law

The focus is on law and the judiciary today at the start of a two-day conference of the Institute for a Democratic Alternative for South Africa on Democracy and the Judiciary in Cape Town.

Mr Justice John Didcott, right, delivered the second Ernie Wentzel Memorial Lecture at the University of the Witwatersrand recently, entitled *Salvaging the Law*

These are excerpts from his address.

Arbitrary power is eroding the legal system ... with politicians blind to the damage done

THOSE of you who were present last year when Sydney Kentridge delivered the first lecture in this series, or were not but read afterwards what he had to say, will remember his masterly survey of the way the cause of liberty had fared in our law over the past four decades

You will recall his lucid descriptions of the earlier period, when some signal successes were achieved, of the defeats then suffered which led to a dark age characterised, as he put it, by "a general spirit of submission to authority", and of the modest renaissance that seemed to have followed, one marked by "a spirit of scepticism rather than subservience", to quote him again, and a renewed, indeed intensified, concern felt by lawyers, on the Bench as well as off it, for the protection and promotion of personal freedoms

And you will recollect that grounds of cautious optimism which he found in that progress, the mention he made of the pronounced increase in litigation over human rights, the greater self-confidence of the legal profession in presenting it, the victories that had been won and their importance

I, too, feel encouraged by this modest renaissance, a good deal of the credit for which is due, I believe, to those professors and lecturers at this law school and elsewhere who over the years have subjected the work of the courts and the legal profession to intense scrutiny and critical analysis

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For a long time theirs were voices in the wilderness Their ideas were widely thought to be unrealistic and incapable of implementation, within the framework of our system at all events And their criticisms of the judiciary and the profession were resented in both circles Yet the criticisms told

For those criticised had to answer, if only to themselves And they sometimes found cause of a society at peace in which all are free and equal, to suggest that terrorism offers scant prospect of advancing it and confronts it with every likelihood of defeat

It is not unusual for some who embrace the cause of freedom, as I hope all of us here today do, to say that they understand these acts of terror, yet then to say no more, as if understanding what drove people to desperate lengths absolved one from the responsibility for taking a stand on the means used to attain the ends

Is this not an evasion of the issue, one just as pusillanimous as the failure to take a stand on the systematic infringements of human rights that have bred the desperation? Is it not, when one comes to think of it, an instance of the self-same failure? Or do human rights no longer encompass the right of ordinary folk not to be blown to bits?

Those who find in warfare excuses for the means it uses ought surely still to ponder on the end, however, and to ask themselves whether terrorism in our society has much chance of producing dividends rich enough even by such standards to set off against all the carnage I venture to doubt it strongly

Nor does political violence stem from one side alone Persons prominent in the liberation movement have been assassinated Others in it have had their property sabotaged So have organisations associated with it

Scarcely any of the perpetrators have ever been brought to book One does not know why One is told so little these days

Looking at each of these cases individually and in isolation, we cannot discount the inherent possibility that some personal grudge or private motive explains it or, if the explanation should happen to be political, that someone in the movement itself did the deed in a war between factions One's credulity is strained, however, by the idea of accounting in that way for all these mysterious inci-

He cited the example of Hitler's Germany, where full legislative authority was conferred by statute on the executive Much of what ensued, he reminded us, was therefore "authorised by duly enacted legislation" He maintained, however, and few would disagree, that "in a more fundamental sense it was lawless, the exercise of state power was unconstrained by any limits or by any control by an independent system of judicial power"

Comparisons between South Africa and Nazi Germany are not only odious but also, on innumerable important counts, far-fetched and false to the point of being grotesque Were this not so we would scarcely, apart from all else that matters more, be gathered here this afternoon

In our country too, however, we witness power exercised under the authority of duly enacted legislation, but in many directions beyond the reach of the law and, in that sense, lawlessly This is what we mean by saying that, though we are ruled by laws, we lack in those areas the rule of law.

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And what Nazi Germany shows us is that, once such areas include the various fields of personal liberty, as they certainly do in our case, the lawlessness of which I talk may pave the road to tyranny.

How this lawlessness has difficulty It is fanciful, for instance, to suppose that policemen anywhere in the world will have human rights high on their list of priorities They are not in the business of promoting or protecting those Their job is a tougher one

And, if they are to do it successfully, if they are to deliver the goods expected of them, their methods will often have to be tough It is for the law in any well-ordered society to tell your policeman that, necessary though his methods may be for the swift and effective achievement of the particular public purpose he is employed to serve, they are too dangerous to other public interests which are not his immediate concern for him to be allowd to use them

It is for the law, in short, to do the balancing between society's competing interests Crises in society make it all the more imperative for the law to do that For then the conflicts between society's various interests are at their starkest and most clamorous, and the need for a balance that is impartial at its greatest

That the politicians should have wanted to grab so much power for themselves and their subordinates, that they should have wished to usurp so much of the judiciary's power, is not really surprising Politics has to do with power, after all, and most politicians are inordinately fond of it What is astonishing, however, is their blindness to the consequences

circles since it began to be canvassed in earnest a few years ago, has had a lukewarm reception in others, which question the relevance of a bill of rights, indeed of any debate about one, until we attain the goal of a true democracy

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In the meantime people are suffering gross violations of their rights To relieve that suffering and restore the rule of law without awaiting a final settlement of our deep political differences does not strike me as a waste of time, even if any bill of rights that was adopted before we had a fully democratic constitution did not go as far as the sort which would be contained in such

The achievement of the immediate object would surely, what is more, strengthen the likelihood that the eventual one was realised

Quite how the government feels about the matter is not easy to tell The messages coming from it are confusing It shows no present willingness, to say the least, to scrap such statutes as the Group Areas Act and the Internal Security Act, which are quite incompatible with and could never survive the enactment of any bill of rights worth its salt, even a modest one

Two years ago, on the other hand, it instructed the law commission to go into and report on the very question of a South African bill of rights The report is expected to be released fairly soon, I gather, and it is awaited eagerly

Trouble may well lie ahead on the question of group rights The commission's terms of reference enjoined it to pay attention to those And a lot of talk about them has been heard lately.

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The short answer to the suggestion that group rights should be entrenched is to point out that, since any group is the aggregate of the individuals who compose it, having no separate identity, you entrench its rights inevitably by entrenching the rights of the individuals within it, in common with those of everyone else

But, if we are to work out a bill of rights that gains the confidence of all in a society as heterogeneous as ours, we shall have to reckon with the importance attached by some to the groups to which they belong, their sensitivities and their fears on that account

It may therefore be wise to provide specifically for the protection groups as well as individuals, even if we believe this comes with the territory anyhow

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Without doing so much, two drafts we already have of a bill of rights recognise the underlying problem. The Indaba draft says that "a person belonging to an ethnic, religious or linguistic group shall not be denied the right to enjoy his own culture, to profess and practise his own religion, or to use his own language"

And the recently revised Freedom Charter insists that "the state shall recognise the linguistic and cultural diversity of the people", that "the constitution must entrench equal cultural, linguistic and religious rights for all".

A third draft, the one prepared for Namibia by its constitutional council, is less genial and spells things out, mentioning group rights in so many words.

It states that "all ethnic, linguistic and religious groups and all persons belonging to such groups shall have the right to enjoy, practise, profess, maintain and promote their cultures, languages, traditions and religions, in so far as those do not impinge upon the rights of others or the public order and the national interest"

The ending, the reference to the "national interest" and perhaps also to "public order", is open to the objection that such is the language of politics and not the law, lending itself to no interpretation that is not highly subjective and dependent on one's own point of view.

This aside, however, the draft seems to say all that could reasonably be thought necessary for the protection of groups, and more.

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It has some words I wish to underline They are "in so far as these do not impinge upon the rights of others" And they are crucial For the trouble I mentioned, the one I fear, consists of a belief still current, as there is plenty of evidence to show, the belief that the protection of one's own group requires and justifies discrimination against other groups

A bill of rights that sanctioned discrimination against any group or against anyone belonging to a group on the grounds that he did, a bill of rights that sanctioned racial discrimination, the historical curse of our country and the basic cause of all our turmoil would be a mere mockery of one

even to themselves. They were driven to reassess their attitudes, to revise their patterns of thought

It is idle to pretend, however, that the climate looks good Indeed, it has deteriorated markedly since Sydney Kentridge addressed you a year ago Needed now is nothing less than a major effort to salvage the law

The state of the nation lends itself to all sorts of grim descriptions But the word that must occur to many lawyers, the disfigurement that must give them special cause for alarm, is surely its lawlessness An obvious manifestation of this lawlessness is the violence in our midst, which has reached proportions that make it seem endemic

The violence I have in mind is political violence, violence committed without a conscious political motive and object

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And the particular sort on which I wish to dwell for a moment, while the bombs that have grown familiar explode around me, is that amounting to terrorism, not terrorism in the artificially wide sense attributed to it by our Internal Security Act, but terrorism as it is properly understood

I refer accordingly not to guerrilla operations, which raise different questions, but to violence that is deliberately designed to destroy public morale by terrorising society as a whole in the hope that this will cause it to collapse, to the violence which therefore is, and in the light of its aim must be, deliberately directed at ordinary folk going about their ordinary business, hitting them indiscriminately, unexpectedly and inescapably

We are ruled by no imperial power that will pack its bags and return home when the going gets too tough and the cost, political and economic, too high Increased terrorism and the inevitably stern reaction to it seem likelier on the whole to lead to greater implacability on both sides, and may well bring about a situation resembling that witnessed in Northern Ireland or the Lebanon, a situation of intransigence yielding to extremism and fanaticism, one in which the ground for negotiation or compromise is devastated, one of descent into anarchy and the dominion of psychopathic gunmen who murder for the sake of doing so

It does no disservice to the cause of freedom, to the ec[illegible] s[illegible]oo grea[illegible]

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It suggests to any rational mind that those responsible on most occasions, if not necessarily all, must in the nature of things have been enemies of the causes for which the victims fought Who can then call it fanciful to conclude, as many do, that we have in our midst a group or groups of unknown right-wing vigilantes?

And, when their crimes have not been solved by security policemen with proved skill and efficiency in investigating the political underground, is it unreasonable for many to suspect, either that the criminals are yet more skilful and efficient, and thus a formidable threat to security, or that tracking them down is not, for some reason or other, a priority as high as hunting left-wingers?

Since crimes actually committed always exceed those of the same kind that are proved in court, what is more, it is fair to assume that the extent of unlawful violence by policemen is greater than the amount, alarming enough, which has been positively established

Even if one accepts that far from all the accusations levelled at policemen are true, as I do because from experience I know it to be so, even if one accepts that very many policemen perform their duties with patience, forbearance and restraint, as I do because my experience tells me that such is also the case, even if one accepts that unlawful violence on the part of policemen is by no means the rule but an aberration, which I expect to find and take for granted, the scale of it remains a matter for deep concern about which something should surely be done

Our society is highly lawless in another and more profound sense, in the sense in which Geoff Budlender used the word in the latest issue of the *South African Journal on Human Rights* when he drew a distinction between unlawfulness and lawlessness, when he pointed out that what was legal or lawful might well be lawless all the same

He wrote "The essence of law is the regulation and control of the exercise of power Law determines when and how power may be exercised, and when it may not" Without the law's restraint, the exercise of power was arbitrary And arbitrary power, he declared, "may be legal, but it is fundamentally lawless"

[illegible] concern us is too well known, to need elaboration and may be stated briefly The legislature, not a democratic one in the first place since it does not represent or speak for the large majority of South Africans, has statutorily delegated to the executive the power to make laws by regulation and decree

This the executive has done voraciously, intensifying the evil of imprisonment without trial, restraining wholesale our freedom of speech, assembly, movement and association and the freedom of the Press, and often entrusting to its mere underling decisions with the same consequences

Judicial endeavours have been made to keep the process under some sort of control by the law and to harmonise its workings with the law's requirements, as far as that could be managed And this has been attempted by no wild unorthodoxy, by no splurge of adventurism, but by invoking and applying tried and trusted rules of administrative law common to our legal system and others, rules developed with the very object of safeguarding the rule of law in such a situation

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Sad to say, these efforts have proved to be largely in vain, the Appellate Division in its wisdom has decided in case after case that has come before it during the past couple of years that the capacity of the courts to assert and protect the rule of law in that situation is so attenuated as to be, for all practical purposes, insignificant

The cause of all the trouble, of course, has been the enabling legislation passed in the first place which, according to the construction authoritatively placed on it by the Appellate Division, ousts the jurisdiction of the courts from most of these matters and gives the executive virtual carte blanche

The result is a society where, throughout the areas under discussion, what matters, what counts, is no longer the law, but sheer unbridled power And the outcome must inevitably be abuses of it Power that is unchecked corrupts not only the readily corruptible It also corrupts those who honestly believe that they are exercising it in the public interest and for the public good

The burdens and preoccupations of one's own responsibilities, the sense of priority they give one, will add to the [illegible]version of Roman Dutch law, a law of which we lawyers rightly are, and they profess to be, most proud Drawing on its own historical traditions and those borrowed from the English common law, it once set great store by human rights and personal freedom

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No other common law in the world had a better score there It was much admired internationally It probably enjoyed the confidence of the mass of our people I said that it was once such a law It still is, in spirit

But the body has been crippled by legislation and can move only haltingly, if at all, on many of the occasions when it is summoned to do so It still supplies, to be sure, a sophisticated service to those who have commercial problems, trouble over wills or difficulties with their property. Some seem to think that a sufficient reason for continuing to blow its trumpet and to take for granted its permanent place in our sun

They have apparently overlooked the frequency with which the survival of Roman Dutch law crops up these days on the agendas of conferences and the like that are busy looking closely into the future

Nor do our politicians appear to have learnt the lesson of history that, just as liberty is indivisible, so is the protection of the law Weaken it today when it protects others against you and it will be weak tomorrow when you may require and want it to protect you against them

How can our law be salvaged? Can it be salvaged at all? I believe that it can be salvaged And I believe that the best way in which it can not only be salvaged but also secured against a recurrence of the harm it has suffered is by the enactment of a constitutionally entrenched bill of rights which is the supreme law of the land in the areas it governs, taking precedence there over all legislation and executive decrees

Such a charter would dedicate our society to the principles it proclaimed and the standards it set, ensuring that this was no mere ceremony but a binding and enforceable commitment And it would guarantee that, for as long as constitutional government survived, so did the rule of law

The idea of a bill of rights for South Africa, while greeted with enthusiasm in some

HANGING

IS IT REALLY NECESSARY?

by FANNY A GROSS, eminent Cape Town criminologist

W/C ARGUS 15/10/88 252

TO hang or not to hang is a perennial question for which there is no unanimity.

It is a subject that is continually being debated in different parts of the globe and in varying walks of life

In those countries where capital punishment has been abolished, its re-introduction has been sought on numerous occasions

In England, where the death penalty for murder was abolished in 1965 by the Murder (Abolition of Death Penalty) Act initiated by Sydney Silverman, MP, and supported by the government of the day, it was decided that abolition should be tried for five years

In December 1969, however, the abolition was confirmed by a majority of 168 votes (343—185)

MANY attempts to re-introduce it (it has been debated in the Commons 13 times) have failed, including the most recent effort in which British MPs again defeated a bid to restore the death penalty for murder by a vote of 341-218

In 1983, Mr Edward Heath, during a Commons debate on the subject, made this comment "We must recognise that if we really are to tackle the penal problem of the country we must turn our attention to just that, instead of automatically saying that the answer is hanging and flogging" Another view during the 1983 debate was that of Jack Ashley, MP, who said "The call for capital punishment is a cry from the heart

"It expresses an anxiety to do something about the evil of murder, and it must, therefore, be respected, but it is the wrong solution

"It is impractical and does not deal with the real problem, which can be solved only by tackling the root of crime, by improving our police forces and by making necessary improvements in our urban areas.

"Capital punishment is a dramatic, flawed and entirely false solution to the problem of capital crime"

THERE is no such thing as a humane way of taking someone's life.

There have been cases where death — by hanging, electrocution, lethal injections or any other method — has not been instantaneous.

Indeed, judicial killing is cruel, barbarous, inhumane and an inherently immoral action, which negates the concept of respect and value for human life

Thus any civilised society which justly condemns the murder of another human being, is not justified in sanctioning the deliberately taking of life as a punishment.

Legalised killing is no more valid in civilised

ders of this sort are so convinced, like criminals of other types, that they have planned well enough to escape detection that they do not weigh the consequences of failing"

Included among them also are those who do not value their lives so highly that they would not be prepared to gamble with them provided the stakes are high enough

On the other hand, capital punishment might actually incite (and has been known to do in the past) some unstable individuals, such as, for instance, psychopathic youths, to commit murder

There are also recorded instances where serious doubts have been raised whether the person was justly convicted and the mistake subsequently recognised, acknowledged and a free pardon granted posthumously

In abolitionist states redress can be made in part for a wrongful conviction but not so in a retentionist state where the death penalty once applied is, of course, irreversible

Thus a belated discovery of his innocence can never bring him back to life

It is wrong to claim the retention or restoration of capital punishment for terrorists, since the fight against terrorism is more likely to be weakened rather than strengthened if the death penalty were to be enforced. They are at risk all the time and are not deterred by the fear of sacrificing their lives.

Indeed, the execution of terrorists would be followed by reprisals and the raising of the status of the terrorist to that of hero and martyr.

Where the jury system still prevails, it has been found that juries, generally, are loath to convict terrorists and would be even less likely to do so if that offence were punishable by death.

No system devised by man can offer a complete solution to the escalating crimes of violence in our society of today.

Greater knowledge and awareness of his lawlessness, which is spreading its tentacles far and wide, and recognition of the general erosion of those eternal values which have stood the test of time, are essential if the crime problem is to be contained.

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society today than torture, maiming or kindred archaic forms of vengeance.

It is brutal, cold and brings those responsible down to the level of barbarity of the criminal himself

James Callaghan, when he was Home Secretary, observed that when society passed the death sentence on a murderer, it was "acting on the same level as the murderers"

It must remembered that prisoners on death row are subjected to mental anguish tantamout to torture

From experience it has been found that capital punishment does not act as a deterrent

There is no conclusive evidence to support the contention that it does

ACCORDING to studies done in America there is no evidence to prove that the absence of the death penalty increases murders or that its presence deters capital offences

Murder rates are not basically affected by the penalties meted out to the offenders, but rather oscillate according to the complex social, political and personal factors that dominate each individual case

Statistics indicate that a majority of offenders are not affected by any type of deterrent since a great number of them are mentally abnormal and thus act with diminished responsibility They are unable to weigh up rationally the possible penalties for their actions

According to a Home Office Research Study done in 1969, "over 33⅓ percent of murders are commited by persons in an abnormal mental state, many of who commit suicide" Between 1957 and 1968, 50 percent of people indicted for murder were found to have had personal relations with their victims, and were generally committed in uncontrollable anger, hurt, or other strong, impusive emotions under extreme provocation

It was also found that about 66 percent of murders took place in the home

The deliberately planned and carefully executed murder is relatively rare

Hence the number of premeditated, cold-blooded crimes, when the penalty might be considered are few and far between

BESIDES, this category of murderer, rationally or irrationally, regards himself too smart to be caught and so is not deterred from committing his deed, a view supported by Sir Charles Cunningham, permanent under-secretary at the Home Office from 1957-1966, who stated the following "The carefully planned and calculated murder, from which it is often argued that the perpetrator might have been deterred by the knowledge that the penalty for it would be death, is — happily — relatively rare, and it may well be that those who commit mur-

by JEREMY DOWSON Weekend Argus Reporter

CALLS for the abolition of capital punishment were being made with renewed vigour this week after the failure of last-ditch bids to stop six death-row prisoners — including four young Cape Town men — from being hanged.

This week's executions, which took place at 6am on Thursday in Pretoria Central Prison, bring the total in South Africa so far this year to 103. This equals the number hanged in South Africa and the homelands in the whole of 1982.

The six men executed were:

● Tholi Nguni of Durban, sentenced to death for the murder of a 64-year-old woman whose decomposed body was found in a grave six days after her death. Lawyers applied unsuccessfully for an 11h-hour stay of execution in the Pretoria Supreme Court shortly before Nguni was to be hanged;

● Alpheus Banda of Vanderbijlpark, sentenced to death twice for the murders of two men; and

● Four Cape Town men, Damons Willemse, 24, Japie Samuels, 22, Willem Loos, 21, and Abraham Koelman, 22, each sentenced to death twice for the rape and murder of a 64-year-old Malmesbury woman.

In a last-minute appeal to President PW Botha to exercise his power to intervene, the national directorate of Lawyers for Human Rights called for a moratorium on all hangings and urged the State President to institute a commission of inquiry into the country's execution rate — a call made as long ago as 1969 by MP Mrs Helen Suzman.

The organisation said: "We wish to stress that we do not condone the crimes that they (the six) have committed.

However, we reiterate that we find the statistics of violent crime and executions in South Africa horrific. Surely there must be something wrong?

The mere fact that executions are sometimes stayed literally hours before the final event is due to take place is in itself proof that there is at least something wrong with the whole process from date of sentence to date of execution."

(In an urgent application last week, convicted murderer Raymond Chozi, of Durban, managed to obtain an indefinite stay of execution hours before he was due to feel the hangman's noose.)

Said co-director Mr Peter Mochle, of Pretoria, after hearing that the hangings had gone ahead: "This is cause for great regret. But we intend to keep fighting the issue."

As do a host of others.

For next month sees the revival of the Society for the Abolition of the Death Penalty, which plans to draw together the widest-yet range of people opposed to the death penalty in this country to campaign for, inter alia:

● Adequate legal counsel;

● Automatic right of appeal (figures released by the Minister of Justice indicate that only 55,9 percent of those sentenced to death from 1983 to 1987 were given leave to appeal); and

● Presiding judges being assisted by assessors able to understand the language of the accused.

According to Mrs Beverley Runciman, a member of the interim committee set up to establish the society's Western Province chapter, the SADP aims to bring together doctors, academics, lawyers, members of the clergy and concerned individuals to form "a broad front constituted not along party-political lines but simply on the basis of being opposed to capital punishment".

The outcry surrounding the "Sharpeville Six and other death-row prisoners this year showed there was "a considerable groundswell of opposition" to capital punishment.

However, one of the biggest problems facing abolitionists, Mrs Runciman admitted, was the conception many South Africans had that execution was an effective deterrent.

"This notion is something we aim to go all out to combat."

Among the groups which have been calling ever more vociferously for the abolition of the death penalty are the Presbyterian Church of Southern Africa, the Southern African Catholic Bishops' Conference, the Church of the Province of South Africa, the SA Institute of Race Relations (which sees the death penalty as contributing to "tension and destructive controversy") and the Black Sash.

A spokesman for another pro-abolition lawyers' group, the National Association of Democratic Lawyers, said the death penalty was regarded internationally as being "barbaric and inhuman".

South Africa had the "highest rate of hangings in the civilised world", many arising from incidents directly linked to apartheid and its effects.

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Absence of automatic appeal against death sentence 'disturbing'

Star 15/10/88 (252)

PAT DEVEREAUX

It was disturbing that our legal system did not give an automatic right of appeal to those sent to the gallows, the Witwatersrand chairman of Lawyers for Human Rights, Mr Peter Leon, said yesterday

His comments followed the recent release of two miners, Mr Solomon Nongwati and Mr Paulos Tshelane, on the same day they were due to hang.

Resigned

The two men, who were sentenced to death for murder, spent 16 months on Death Row

More than 100 of their fellow prisoners went to the gallows, and they had resigned themselves to the same fate

They were released after a successful appeal against their sentences.

Referring to their case, Mr Leon said "It is worrying that the Appellate Division was moved to quash their sentences. It is clear they were unsustainable."

He added "It is disturbing that there is no automatic right of appeal from a trial court.

"Under the present system, if the right of appeal is not given, the Chief Justice has to be petitioned If this is turned down, the only avenue is to petition the State President

"I believe that there should be an automatic right of appeal, if not to the Appellate Division, then at least to a full Bench of the relevant provincial division"

Mr Nongwati, from Matatiele in the Transkei, and Mr Tshelane, from Lesotho, were members of a group of six men convicted of killing five alleged "informers" during unrest at a Reef mine in 1986.

When Mr Nongwati's death sentence was set aside, he had already served a 30-day sentence for public violence

Mr Tshelane had his conviction and death sentence completely overturned

The two men have returned home to their families, according to NUM legal department official Mr Kenny Mofime

Other members of the group also had their sentences overturned or reduced by the Appeal Court

Siphiwe Mbalombaka's appeal against his convictions and two 10-year sentences for murder failed

He is to serve the sentences concurrently with two four-year terms

His other murder charges were reduced to attempted murder, and he was given a reduced six-year sentence on the original attempted murder charge

Tyelovuyo Mgedezi's appeal was successful in the case of two charges

Failed

However, his appeal against two other death sentences failed, and he is still on Death Row.

Frans Makhanya, who was originally sentenced to 15 years on all five charges, won his appeal against sentence and conviction.

A charge of public violence was substituted for the murder charges, and he was sentenced to 18 months in jail, of which he has already served 15

Although Mr Edward Masike's conviction and sentences were also set aside, he is being kept in custody prior to deportation.

Prof calls for judges to resign

Cape Times 15/10/88 (252)

By ANTHONY JOHNSON
Political Correspondent

A NUMBER of South African judges should resign immediately, Professor John Dugard, director of the Centre for Applied Legal Studies at the University of Witwatersrand, said yesterday.

"Here one thinks of those judges who consistently exercise their discretion in favour of the executive, who fail to question police conduct on many occasions and who refuse to inquire deeply into the existence of extenuating circumstances in capital cases"

Speaking at a conference on "Democracy and the Judiciary" held by the Institute of Democratic Alternatives for South Africa (Idasa), Professor Dugard said "We all have our list of such judges, they surely would not be missed if they were to resign"

Many judges regarded themselves as instruments of the ruling élite whose task it was to implement government policy in the name of legality

"Several and probably most of the decisions of the Appellate Division on the emergency regulations support this thesis"

However, he emphasised that it was difficult to support the growing calls for the resignation of "moral judges" — those judges who found the law they had to enforce morally indefensible

Professor Dugard said that South African law not only permitted but required judges to interpret and apply the law in a constructive and idealistic manner

The idea that the judge was required to subordinate his discretion to the ruling élite was foreign to South African law, he argued

Mr Mike Robertson of the Department of Public Law at the University of Natal in Durban agreed "Moral judges and progressive lawyers need to fight to stem the corruption and complacency with which we are all threatened"

Rather than the resignation of "moral judges", what was needed in South Africa was "a clear and deliberate programme" to counter the anti-legal culture that was burgeoning in South Africa at the moment

Appeal Court 'an arm of the NP'

Political Correspondent

THE Appeal Court had acted as "the arm of the National Party" and had become "part and parcel of the oppression of this country", advocate Mr Anton Lubowski, financial secretary of the National Union of Namibian Workers, said yesterday

Speaking at the Idasa conference on "Democracy and the Judiciary", Mr Lubowski noted that the Appeal Court in Bloemfontein had overturned "every single challenge" brought before it so far against the emergency regulations

Mr Lubowski, who practises at the Windhoek Bar, said the court had in various areas, but especially in that of administrative law, acted as the arm of the NP

A former judge, Mr Justice John Trengrove, said during the discussion period that it was wrong to suggest that the Appellate Division was an arm of the National Party

The Appellate Division was obliged "to apply the law as it is" and had to do this irrespective of which party was in power

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Judge wants apology from Port Nolloth

Cape Times 20/10/88

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Staff Reporter

A CAPE TOWN judge yesterday demanded an apology from the Port Nolloth town clerk who told a legal representative that he would demolish squatter homes despite an order halting any demolitions

At 5.15pm on Tuesday Mr Justice H L Berman issued an order restraining the municipality — which intended demolishing 150 squatter homes early yesterday — from continuing with the demolitions until he had heard an urgent application yesterday by a Tentedorp squatter, Mr J M Luwalala.

In papers before the court, an articled clerk of a city law firm acting on behalf of the squatters yesterday said he had immediately sent a facsimile copy of the judge's interdict to the municipality's lawyers and the municipality.

He also contacted the Port Nolloth town clerk, Mr Lukas Groenewald, by telephone to inform him of the contents of the order.

Mr Groenewald initially refused to speak to him. However, after hearing the first paragraph of the judge's order he said he was being threatened. He later told the articled clerk he would go ahead with the demolitions and said he was "sick and tired (gatvol) of the whole business"

Commenting yesterday on Mr Groenewald's reply, Mr Justice Berman said "That colloquial language constitutes gross contempt to my court"

Mr Justice Berman said he would hear Mr Luwalala's application at 2 15pm today, once he had received Mr Groenewald's apology.

Mr Luwalala will ask the Supreme Court to interdict and restrain the town's municipality from demolishing or removing his and 149 other squatters' tents on salt pans near the town.

This move follows the municipality's planned demolition — provisionally thwarted yesterday — of the Tentedorp and Bloukamp camps outside Port Nolloth

McBride appeal to Mugabe

From MARLAN PADAYACHEE

LONDON. — Mrs Doris McBride, mother of Magoos Bar bomber Robert McBride, has made a personal appeal to British Prime Minister Margaret Thatcher to save her son from death row

Mrs McBride, her daughter Bronwyn and a representative of the National Association of Democratic Lawyers (Nadel), were in London last week to meet support groups and to ask Britain to intervene on behalf of her 25-year-old son

They made their appeal to Thatcher at the Conservative Party conference in Brighton, scene of the IRA bombing four years ago

McBride's appeal against his death sentence has been turned down and if his plea for clemency is rejected he could hang at the Pretoria maximum security prison within seven days

The campaign here is being co-ordinated by Southern Africa The Imprisoned Society (Satis) with the help of the British Anti-Aparheid Movement.

Mrs McBride, of Wentworth, near Durban, made a desperate plea for her condemned son's life to be saved at a Free Robert McBride rally held last week at the Trade Union Congress' Hall in Great Russell Street.

About 200 anti-apartheid supporters attended the rally chaired by lawyer Geoffrey Bindman, chairman of Satis

Mrs McBride gave a bleak sketch of her son's background, ranging from his fight against gangsterism in the coloured township to his quest for a political deal when he joined the ANC

Bronwyn said the family would be grateful if Thatcher interceded to save Robert

"Thatcher seems to have a lot of clout," she said

"She is in Botha's good books Even if it is done privately, it is our only hope We don't know how long he has to live"

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Town clerk apologises to judge

Cape Times 21/10/88

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Staff Reporter

A CAPE TOWN judge yesterday accepted the "unqualified apology" of Port Nolloth town clerk Mr Lukas Groenewald, who recently told an articled clerk he would demolish squatter homes despite a court order.

Mr Justice H L Berman, who issued the order on Tuesday, demanded an apology on Wednesday afternoon after hearing that Mr Groenewald had told the articled clerk he was "gatvol" with the legal proceedings

When Mr Theo Barnard, counsel for the municipality, disputed the articled clerk's authority to contact the town clerk, the judge replied "If my order is transmitted by a street sweeper, it remains an order I expect his apology."

In a statement read to the court by Mr Barnard yesterday, Mr Groenewald said his utterances had to be understood in terms of conflicting court orders which first allowed, then denied him the right, to demolish squatter tents

The judge yesterday agreed to squatter Mr J M Luwalala's amended application that 149 other Tentedorp and Bloukamp squatters be granted an order restraining the municipality from demolishing or removing their tents.

Mr Justice Berman said he would issue an order on Monday.

The hearing continues today at 9.15am.

Mr J Gauntlett, instructed by Mallinick, Ress, Richman and Closenberg, of Cape Town, appeared for the squatters Mr Barnard was instructed by Van der Spuy and Partners of Port Nolloth.

Star 26/10/88

Judiciary 'able to weather criticism'

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By Claire Robetson, Pretoria Bureau

The South Africa judicial system was sufficiently endowed with respect in its role in the country to be able to weather even robust criticism, the editor of *The Pretoria News*, Mr Mostert van Schoor, told the Pretoria Regional Court yesterday

He was appearing on a charge of contempt of court arising from the publication in March of an article by British lawyer Mr Louis Blom-Cooper, QC, expressing concern over the verdict and sentence in the "Sharpeville Six" case.

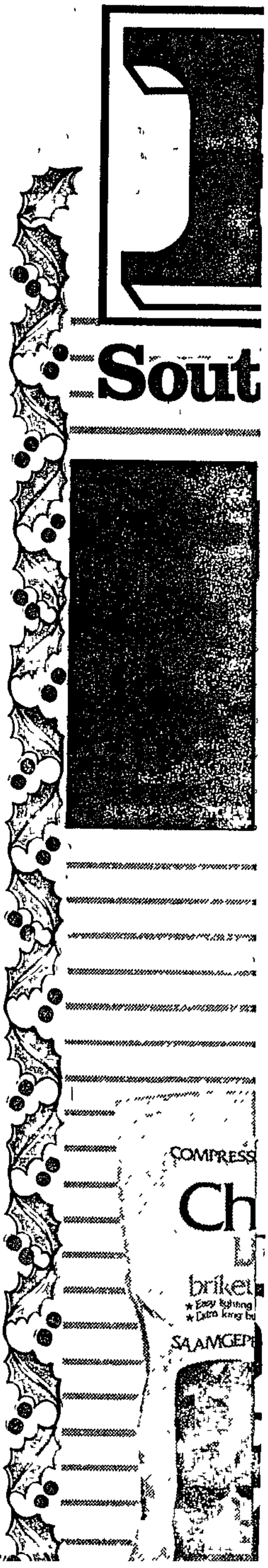
PRESTIGE

The State alleges that the article made statements affecting the dignity, prestige and authority of five Appeal Court judges and the presiding judge, and interfered in the processes of a *sub judice* case

The article was vetted, sub-edited and placed by an assistant editor of *The Pretoria News*, but Mr Van Schoor said he himself would have published it, "although that does not mean I associate myself with (the views contained) in it".

Asked to say why he thought the article was used — on the day of the hearing of an application for a stay of execution for the five men and a woman sentenced to death for common cause with the killers of a Lekoa town concillor — Mr Van Schoor said. "I believe that in this case we were dealing with some very extraordinary circumstances

"Claims were being made abroad about the judgment which had been subject to intense political, diplomatic pressures on South Africa, threatened sanctions, threatened severing of diplomatic relations,



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"Claims were being made abroad about the judgment ... which had been subject to intense political, diplomatic pressures on South Africa, threatened sanctions, threatened severing of diplomatic relations, things that would have a drastic affect on the lives of South Africans"

'CHARADE'

He said he did not associate himself with the sentiment expressed in the article that the conviction of the Sharpeville Six lent credence to a claim by *The Times* newspaper of London that the South African judicial system was a "charade"

Cross-examining Mr Van Schoor, Mr Dion van Wyk said "You know that you are allowed to criticise judgments, but you are not allowed to impute biased motives to a presiding judge

"When imputing improper motives on the part of a presiding officer, you are going on to very dangerous terrain"

The hearing continues.

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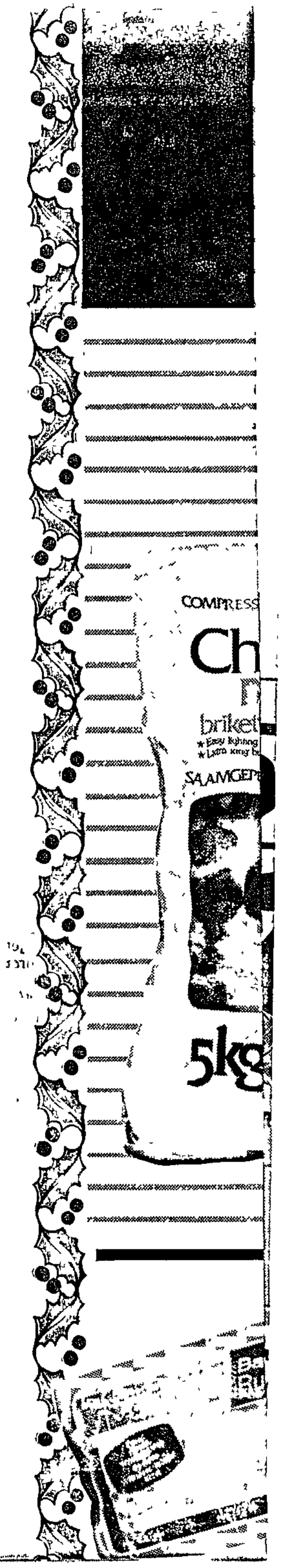


It's a finely tuned job, says judge

ARGUS 252
26/10/88

By TOM HOOD
Business Editor

A CAPE judge has admitted that in his first case 23 years ago, he probably imposed too heavy a sentence on a man for rape.

Mr Justice Pat Tebbutt recalled sentencing the man, a first offender, to seven years' and said he should have imposed five years'

"I have regretted that sentence ever since I passed it"

One of the most difficult decisions facing judges was the passing of an appropriate sentence, and especially its effect on the public mind, said Judge Tebbutt, guest speaker at the banquet of the Building Industries Federation (Bifsa)

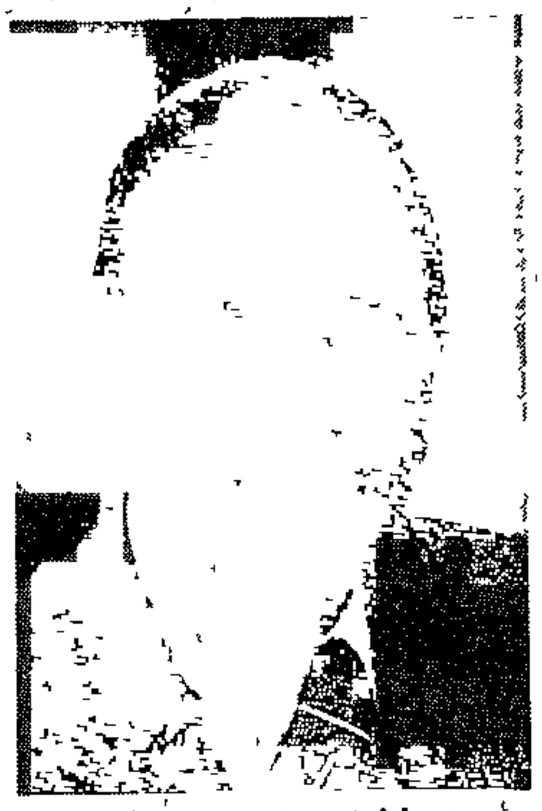
"We are sentencing today with far more care We look into a man's background, what motivated him, his education and home background"

Rehabilitation

Today the emphasis was on rehabilitation, because every person who went into jail had to come out, be found a job and be absorbed into society

About 111 500 people were in jail in South Africa and it cost R12-million a day to keep them there

One person in six in South Africa was affected by crime every year, either as a victim or relative of a victim, and employers should think very carefully abnout this, he said



Mr Justice Pat Tebbut

One of the major causes of crime was lack of proper housing, and employers should be thinking of providing houses for their employees

"If you do have an ex-convict coming out, give him a job and don't turn him away, otherwise he may return to robbery or housebreaking

"We have found that if you take someone like that on, you will have an extremely loyal employee"

An organisation such as Bifsa could provide "a wonderful adjunct" to Nicro in getting people back into society

Judge Tebbut said the judiciary was sometimes criticised for being too lenient in handing down sentences

"We hear so much criticism of judges these days and it has been suggested that I should resign along with all the other judges because we are applying the laws of the country"

Informed

He said it was right that judges' sentences should be open to public criticism "If the sentences should be out of touch with the wishes of the public, it is right that we should be criticised and that our sentences should be open to criticism But I ask that this criticism should be informed"

Judge Tebbutt quoted the case of a man who, while heavily under the influence of liquor, went with a friend to fill his car A row developed with another driver at the petrol station, and the two men decided to go and "donder" the other

They chased his car and eventually the driver ran into a pole and his wife was killed — "a most unfortunate set of circumstances"

The judge said he took the view that the drunk man never intended to kill anyone "I gave him 1 000 hours periodic imprisonment, but some people said he should have been hanged

"It is an interesting thing that some people are so free with other people's lives"

Judiciary robust enough to stand criticism — editor

Argus 26/10/85

The Argus Correspondent

PRETORIA — The South Africa judicial system was sufficiently endowed with respect for its role to be able to weather even robust criticism, the editor of the Pretoria News, Mr Mostert van Schoor, told a Pretoria court

Mr van Schoor appeared yesterday in a regional court on a charge of contempt of court arising from the publication by the Pretoria News in March this year of an article by British barrister Mr Louis Blom-Cooper QC expressing concern about the verdict and sentence in the Sharpeville Six case

The State alleges that the article made statements affecting the dignity, prestige and authority of five appeal court judges and the presiding judge in the Sharpeville Six case in their official judiciary capacity, that it affected the dignity of the Supreme Court and that it interfered in the processes of a sub-judice case

COMMON CAUSE

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"I believe that in this case we were dealing with extraordinary circumstances

"Claims were being made abroad about the judgment which had been the subject of intense political, diplomatic pressures on South Africa, threatened sanctions against South Africa, threatened severing of diplomatic relations with South Africa, things that would have a drastic affect on the lives of South Africans

"At the root of this was the controversial judgment

"The role of the free Press in keeping the public informed on these things is fundamentally important"

MOTIVES

Cross-examining Mr van Schoor, prosecution advocate Mr Dion van Wyk said "You know that you are allowed to criticise judgments but you are not allowed to impute biased motives to a presiding judge"

"When imputing improper motives on the part of a presiding officer, you are going on to very dangerous terrain"

Mr van Schoor said· "This argument (about the death sentence for a finding of common cause in a killing) had been going on if not for years, then certainly for months in the Press, from public platforms. This was the centre of the debate The debate was common and current knowlege"

(Proceeding)

Judgment was controversial - editor

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Cape Times 26/10/88

PRETORIA — The editor of The Pretoria News yesterday agreed there were certain "awkward areas" in an article published in the newspaper, criticising the judgment in the so-called Sharpeville Six trial by an acting judge of the Supreme Court here.

While under cross-examination in a Pretoria Magistrate's Court, Mr Mostert van Schoor who, with the newspaper, is facing a charge of contempt of court, was asked whether the article should not have started alarm bells ringing, especially as, at one point, the judicial system was labelled a "charade".

"Yes, I think it needed careful looking (at)," Mr Van Schoor said.

Mr Van Schoor was asked whether he knew that the press was allowed to criticise a judgment, but it was not allowed to impute certain motives to the presiding officer.

He said sanctions were threatened against the country as well as the breaking off of diplomatic relations, should the Six be hanged, and this could have had a "very, very drastic" effect on the lives of South Africans.

"At the root of this was a controversial judgment."

He added that he believed the judicial system was a "robust" one.

The case continues — Sapa

(252)

FOCUS: WHAT THE ELECTIONS MEAN

Neither fair nor free, says human rights dossier

By SHAUN JOHNSON

EVEN before the polls opened yesterday the municipal elections were neither free nor fair, according to a detailed report released by the Human Rights Commission this week.

The detailed memorandum covers the period August 15 to October 23, the immediate run-up to the elections.

The document charges that "numerous incidents", coupled with the fact that the poll "took place under a blanket of silence generated by the repression of anti-apartheid activists", ensured that the conditions set down by the Universal Declaration of Human Rights for "genuine" elections were not met.

The HRC argues that a range of repressive activities — including detentions, restrictions, assaults, attacks, bannings, prosecutions and coercion — were reported around the country in the period under review

Extra-parliamentary activists "had begun to report that they were being harassed" by mid-August according to the report, and many were warned against opposing the elections

"The clampdown began in earnest at the beginning of September (with) the virtual destruction of the South African Council of Churches building," the HRC says, which was "widely interpreted as a response to the churches' call for an election boycott".

In addition, a pattern of intensive detentions, focussed on youth activists, began to emerge

According to the report, as well as the numbers of long-term, high-profile detainees already behind bars, "the sharp increase in the number of (nationwide) Emergency detentions since September 1 suggests they (were) part of the state's push to weaken opposition

Reports reaching the HRC alleged that several detainees had been told they would be released once the elections were over. The link between the detentions and the elections was made explicit in the case of Methodist minister Tom Mbabane of Soweto, the report claims

"The minister was subsequently released, but the warning to the community was crystal clear — oppose the elections at your own risk."

The memorandum isolates the restriction of individuals as an allied means of diluting opposition to the elections — and underlines the use of limited-period bannings as a method of sabotaging meetings. Restrictions in the run-up to the polls affected high-ranking members of labour, community and political groups.

There was an intensification of "assaults, harassment and attacks" during this period, according to the HRC. The report lists 12 specific incidents affecting activists or their families — "a small sample" — and concludes that a particularly "repressive atmosphere" prevailed in the black townships.

In addition, the HRC cites several apparently politically-motivated killings during the period under review.

Noting that the media was unable, because of legal proscriptions, to fully report anti-election calls, the memorandum sets out specific actions against publications before yesterday's ballot.

Many meetings were banned including the Congress of South African Trade Unions' proposed national consultative conference in September. However, the prohibition of several much smaller local election gatherings was reported in areas ranging from Alexandra to Grassy Park.

Less directly, the HRC report alleges that "a range of measures were being used to coerce whole communities, or sections of communities, to vote."

The report claims that poorer communities, squatters, pensioners, workers and the unemployed have been coerced in various ways

Finally, the report puts the spotlight on the controversial prior voting system, a new innovation in local elections "Reports from various parts of the country indicate that there has been extensive coercion and corrupt electoral practices during this period .. Concern was expressed by the town clerk in Lekoa that the promises being made to residents to get them to vote were so outrageous that a failure to fulfil them would lead to an explosion even bigger than the Vaal upheavals in 1984."

The HRC memorandum was compiled after "a range of research organisations, community organisations, news agencies and church groupings throughout the country" were contacted. Most of the information was "drawn from personal interviews with members of the various communities."

However, the report warns, "the current wave of repression and censorship has meant that we have only been able to uncover some of the many incidents which have been occurring in South Africa".

Are we holding our own people as PoWs?

Star 1/11/88 (252)

Human rights focus

One of a series of articles by the recently-formed Human Rights Commission

If The Star were to conduct an opinion poll asking "Is South Africa holding hundreds of its own citizens as prisoners of war?" most respondents would probably question the sanity of the interviewer But the question is not perhaps as outrageous as it may seem

It has been said that South Africa is a country at war with itself, that eight percent of South Africans have elected a Government which is only able to continue ruling by locking up the leaders of 75 percent of the people

Before one writes off this view as extreme, it should be borne in mind that almost 51 000 South Africans have been detained without trial since 1985, because they have opposed a situation where three out of four of the country's people have no say in the running of the country

Moreover, the Government, through its actions (and not its propaganda) has vindicated the view of those who have claimed that the vast majority of detainees have been incarcerated for not only peaceful but also legal opposition to the apartheid order approximately 97 percent of detainees are released from detention without being convicted of any offences.

Indeed the vast majority are never charged at all It is not necessary for the Government to do so, since it has declared a de facto state of (civil) war which enables it to detain at will

Beyond war zones

Again, this view might seem extreme But the argument that South Africa is in a state of war, not with a foreign power, but with its own citizens, was put by no less an authority than counsel for the Minister of Defence in a recent court case

The Minister, General Magnus Malan, argued that an (undeclared) state of Martial Law existed in South Africa, that this extended beyond the "operational area" to the townships and urban areas of the country, and that the courts therefore had no jurisdiction to intervene in what would otherwise be illegal acts by the SADF against South African citizens

It is against this backdrop that the concept of political detainees being de facto "prisoners of war" is beginning to become a frightening reality

What we are now witnessing is the long-term, indefinite withdrawal of the Government's main opponent from the political arena There are roughly 1 500 detainees being held at the moment and very many of them are into their second and even third year in detention

They are simply being carried forward from one annual State of Emergency to another They have no legal remedy for their situation since even the courts now acknowledge that all jurisdiction over the freeing of detaines has been removed by several Supreme Court and Appeal Court rulings and that the provisions of the Public Safety Act are unchallengeable

'Duty to escape'

The situation may be likened to one of a country at war, in which constitutional and legal procedures are suspended and persons in large numbers are consigned to internment camps, pending the cessation of hostilities And perhaps like prisoners of war, the victims feel that their only recourse, and in fact their duty, is to escape

It is in this context that the decision of three UDF leaders to escape (an act that would normally be frowned upon as criminal) and to campaign against the indefinite detention without trial of their comrades, drew so much sympathy from South Africans and the international community

Surely, however, all those concerned with human rights and the future of this country, must abhor a situation where some of the finest leaders that this country has produced, are being faced with the option of escaping from jail in order to play their role in bringing about a South Africa in which "everyone has the right to life, liberty and the security of person" (Article 3 of the Universal Declaration of Human Rights)

Gen Magnus Malan . . . has argued that state of martial law extends beyond the operational area into townships and urban areas

November 3 1988

Plan of action goes forward

Reviving Society for Abolition of Death Penalty

Star 3/11/88

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The Society for the Abolition of the Death Penalty will be revived at a public meeting in Johannesburg on Saturday

The meeting, beginning at 10 am in the Wits Theatre, will be addressed by Mr Ramon Leon, QC, a former judge of the Natal Bench

Campaign

The Society for the Abolition of the Death Penalty was initiated by the late Professor Barend van Niekerk of the University of Natal The organisation campaigned vigorously during the 1970s — an era which saw a marked decline in the number of hangings

Since Professor van Niekerk's death the society has lapsed, although executions have soared in recent years Between 1983 and 1987 there were 627 executions in South Africa (excluding the independent homelands), according to the Centre for Applied Legal Studies at Wits University

It took Britain 10 times as long to carry out a comparable number of executions (632) before abolishing the death penalty

This year there have been at least 104 executions

The society aims to finance itself, at least in part, from membership fees of R10 a year and donations from individuals, companies and organisations

On Saturday a programme of action will be put forward by a steering committee constituted some months ago and chaired by Professor Ellison Kahn of Wits University School of Law.

A new executive committee will be elected to implement the programme

City's Justice Corbett made Chief Justice

Cape Times 5/11/88

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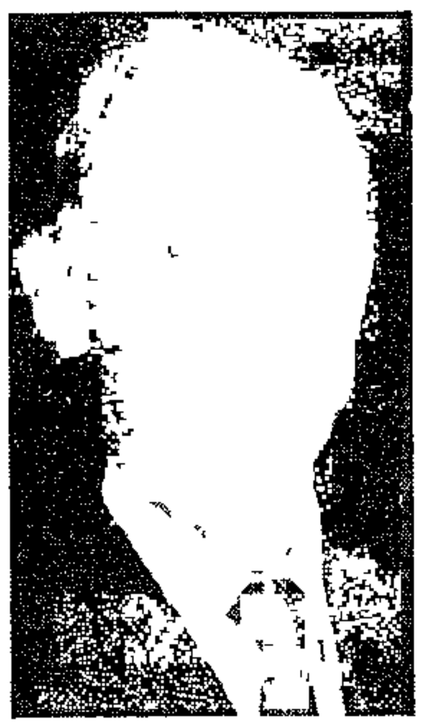

Mr Justice Corbett

Staff Reporter

MR Justice Michael McGregor Corbett, Cape Town Supreme Court judge and Appeal Court judge of 14 years' standing, has been appointed Chief Justice of South Africa from February 1 next year

This was announced by the State President, Mr P W Botha, in Pretoria last night

The national director of Lawyers for Human Rights, Mr Brian Currin, said he welcomed the appointment

Mr Justice Corbett is on record as calling for the entrenchment of a bill of rights and for the securing of press freedom

He has also warned of the danger to the legal system of systems in which a powerful state agency is put permanently beyond the law

Mr Justice Corbett obtained the BA LLB degree at UCT, joined the Cape Bar in 1948 and did part-time lecturing at the university

He is married to Margaret Murray Luscombe of Graaff-Reinet. They have four children — two daughters and twin sons, both of whom are members of the legal profession

18 years on, gallows busy as ever

(252) STAR 5/11/88

PATRICK LAURENCE

NEARLY 18 years ago, Professor Ellison Kahn, a leading opponent of the death penalty, declared of the abolitionist movement in South Africa "Eventually it must triumph, as it has triumphed in practically the rest of the whole of the civilised Western world"

His prediction, made in February 1971 during his opening address at a meeting to launch the Society for the Abolition of the Death Penalty in South Africa, was premature

By the early 1980s the annual number of executions in South Africa was on the rise again, while the society, launched with such high hopes, was on the wane

In the years immediately after the establishment of the society the annual number of hangings dropped from close to 100 in the late 1960s to just over 40 But then they rose again, topping the 100 mark by the late 1970s and the early-1980s Last year they reached an all-time high of 164

Worse still, from the abolitionist point of view, the society was moribund by the death in February 1981 of the man who had been the driving force behind its formation a decade earlier, Professor Barend van Niekerk

But, in recent months, abolitionists, horrified at the increased work rate of the hangman, have stirred themselves and revived the society A retired Supreme Judge, Mr Ray Leon, has prepared a paper for delivery today at a ceremony to formally reconstitute the society

Comparing Mr Leon's speech — Saturday Star has an advance copy — with Professor Kahn's one is struck by a number of similarities in their arguments against the death penalty

One is their conviction that the death penalty does not serve as a deterrent As Professor Kahn remarked nearly 18 years ago "There is no evidence that I have encountered from a fairly wide reading on the subject that abolition has altered the incidence of murder"

Another is their belief that it is possible for the courts to err and to sentence an innocent man to death Both men cite the case of Timothy Evans, the Londoner, who, in his confusion and fear, made contradictory statements which resulted in his execution for a murder committed by the mass killer Christie

In his paper Mr Leon recalls the research of Professor Van Niekerk, he found that nearly 80 percent of practising members of the South African bar thought that it was "not impossible" for an innocent man to be hanged for murder in South Africa

The revival of the society takes place against a backdrop of grim statistics With two months to go before the end of the year, 104 people have already been hanged since January 1. Scores of people are waiting in death row, among them the Sharpeville Six — one of whom is a woman — and four white policemen

In the intervening years since the original launch of the society and its reconstitution today, a new development has emerged the appearance in death row of men driven for the most part by political conviction rather than personal greed or resentment

It is an issue which abolitionists have to address today Among the men in death row is the Durban bomber, Robert McBride, and the Messina landmine trialists, Mthetheleli Mncube and Mzandeli Nondula

In a thought-provoking article in the latest issue of the *SA Journal of Human Rights,* Professor John Dugard, another abolitionist, compares the actions of Mncube and Nondula in the Northern Transvaal in 1985-86 to those of the South African soldiers who, on March 28, raided "ANC targets" in Botswana In both cases innocent civilians were killed.

Professor Dugard says "If the South African courts and executive are to hang ANC soldiers they must anticipate that neighbouring states will (invoke SA law) and show little mercy to captured SADF soldiers"

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NEWS

New Chief Justice welcomed

by DAVID BREIER
Political Staff

SOUTH AFRICA's new Chief Justice, Mr Justice Michael Corbett, believes that in the long term some form of majority rule appears to be logical and inevitable for South Africa

Mr Justice Corbett, 65, who has been an Appeal Court judge for 14 years, has been appointed by President P W Botha as Chief Justice from February 1 He will replace the acting Chief Justice, Mr Justice Rabie

President Botha has in the past been criticised for retaining Mr Justice Rabie as acting Chief Justice instead of appointing a successor The appointment of Mr Justice Corbett has been widely welcomed.

Mr Justice Corbett is regarded as a scrupulously correct judge, while outside court he has a long record of expressing enlightened and libertarian views

In 1979 he opened an international conference on human rights in Cape Town where he said "In the long term some form of majority rule appears to many thinking persons to be logical and inevitable.

"And in this context there is talk of a bill of rights, to be upheld by an independent judiciary and designed to ensure that the rights of minority groups are protected"

Mr Justice Corbett was an early proponent of a bill of rights — which in fact is now in an advanced stage of preparation by the SA Law Commission

Commenting on Mr Justice Corbett's appointment as Chief Justice, Mr Brian Bamford, SC, legal author on world judicial systems and former MP, said it was "great news"

"He is a very accomplished lawyer and very highly regarded He is a very straight up-and-down hard-reasoning judge. His judgments are perfect examples of Roman-Dutch reasoning

"He has a tremendous flair for taking precedents and following and expanding on them In his hands the Roman-Dutch Law is perfectly safe. He is a very great judge indeed"

Mr Brian Currin, national director of Lawyers for Human Rights, welcomed Mr Justice Corbett's appointment and said he was known as an excellent jurist

Support for Corbett

Cape Times 7/11/88 252

Own Correspondent

JOHANNESBURG — Appointment of Mr Justice Michael Corbett as Chief Justice should help to repair damage to the reputation of the judiciary and rule of law, advocate Mr Edwin Cameron, of Wits University's Centre for Applied Legal Studies, said yesterday

In a controversial speech last year one of the issues, which Mr Cameron highlighted, that affected the bench was the unprecedented appointment of an Acting Chief Justice. He was supported by some lawyers

Johannesburg lawyer Mr Peter Leon also said appointment of an Acting Chief Justice might have been unconstitutional.

Praised

A Bar Council delegation met the Justice Minister, Mr Kobie Coetsee, this year to discuss the issue but the nature of the representations and the outcome of the meeting were not made public.

Mr Justice Corbett's appointment, announced by President P W Botha on Friday, has been widely praised.

Professor Tony Mathews of Natal University's law school welcomed the appointment saying Mr Justice Corbett was an extremely able judge and was a man who could put more emphasis on controlling powers and protecting rights

He said in the Appeal Court jurisprudence, there had been almost no willingness to control emergency powers but it was yet to be seen whether Corbett would be able to make use of his appointment to anything in this area.

Growing pressure for moratorium

Call for inquiry into death penalty likely

Star 7/11/88

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By Jo-Anne Collinge

Pressure for a moratorium on executions and for the appointment of a judicial inquiry on the death penalty is likely to grow following the revival of the Society for the Abolition of the Death Penalty in South Africa

The organisation was relaunched in Johannesburg at the weekend The new committee, headed by Professor Ellison Kahn of the University of the Witswatersrand, includes members from Johannesburg, Cape Town and Pretoria

The society has the support of at least one judge, Mr Justice Didcott of the Natal Bench, who sent a message of support, saying "Convinced as I am that capital punishment degrades a society that resorts to it I warmly support efforts to abolish it"

A key recommendation put to the executive committee was that it should "make an immediate formal request for the appointment of a judicial commission of inquiry and for a moratorium on all further executions pending the report of that commission"

The proposal came from the "relaunch committee" responsible for reviving the society, which was chaired by Professor Etienne Mureinik of the Law Faculty at Wits University

"Should the Government fail to accede to that request," said Professor Mureinik, "we would recommend that the society institute its own commission of inquiry, to undertake the task which ought to have been done by government"

He described the abolitionist committee as an "able and learned" one with talents "every bit as impressive as those which would be available to the Government"

The society was founded in 1971

Change in opinion

Professor Mureinik said his steering committee was of the opinion that the reconstituted society would have to take account of a change in the climate of opinion.

Whereas originally the society had campaigned for abolishing the death penalty "in times of peace" it had become clear in recent years that "the arguments for abolition apply with at least as much vigour in time of war"

The constitution should be amended to allow for the society to work fully in a country which was widely seen as being at war with itself, said Professor Mureinik

The society's broad campaigns would be in parallel with support work directed at those already on death row

Society to question death penalty

Cape Times 7/11/88 (252)

Own Correspondent

JOHANNESBURG — The relaunch committee of the Society for the Abolition of the Death Penalty in SA recommended that the society's new executive formally request the government to appoint a judicial commission of inquiry into the death penalty.

It also recommended that there be a moratorium on all further executions, pending the report of that commission.

The society was relaunched at the University of the Witwatersrand at the weekend, following a recent meeting of individuals who were concerned that the number of executions in SA had risen alarmingly.

The society's former president, Professor Ellison Khan of the University of the Witwatersrand, said the most significant thing since the society's demise in 1974 had been the increase in the number of executions

The society asked if, at the very least, the list of capital crimes could not be drastically curtailed, whether the many who stood trial on capital charges were adequately represented, whether there should be an automatic right of appeal and to what extent racial bias contaminated capital sentencing

Judge Tebbutt . . . the moderate who believes in his fellow man

ARGUS 7/11/81 252

By CLIVE SAWYER, Staff Reporter

MR Justice Pat Tebbutt, whose career has spanned law, journalism, business, sports commentating and charity work, describes himself as a moderate judge who believes in his fellow man

He caused a stir recently when he spoke out about the difficulty judges had in handing down appropriate sentences

A man with a fine sense of humour, he attributes his reputation for expressing opinions to "an unsolicited popularity as an after-dinner speaker"

Mr Justice Tebbutt's father was a bank manager whose life of successive transfers meant that young Pat attended one country school after another before matriculating in Mafeking

"In my childhood I had the opportunity to meet a variety of people," Mr Justice Tebbutt said in an interview His parents wanted him to be a doctor and he wanted to be an architect, so law was the compromise

"Seriously, I was drawn to law because my father had been involved in a number of big estate matters and I found the workings of the law quite engrossing"

He graduated with an LLB from the University of Cape Town in 1944, but after serving in the South African Navy in the latter stages of World War 2 was unable to obtain chambers because office accommodation was in short supply

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At the suggestion of a friend, he took a "temporary" job as a reporter with The Argus and stayed five years

"For a long time my beat was the Supreme Court, which heard fewer cases in those days which gave one the opportunity to cover the case in depth and concentrate on the *cause celebre* as well" He met several attorneys as a reporter, acquaintances who were useful when he went to the Bar in 1951

"I was not as briefless a barrister as I might have been In fact, in my first month of practice I made 120 guineas, though in my second month I made two To earn extra money I translated Hansard"

Press gallery duties quickly cured him of any desire for a political career

In 1948 he married for the first time, divorcing in 1960 His second marriage in 1961 lasted [illegible] years

His third wife, Gilly, is the current South African ladies' golf champion, a golf Springbok and captains the Western Province golf team. He has two sons

Picture ANDREW INGRAM, The Argus

Mr Justice Pat Tebbutt

He was appointed to the Bench in 1965, aged 41, as an acting judge

Mr Justice Tebbutt sidelined as a sports commentator for 35 years and at one time left the Bench for a career in commerce, serving as managing director of a major company and on the boards of others He was appointed a permanent judge in June, 1981

He has served several terms as president of the Convocation of the University of Cape Town and has been involved in several charities, at one time serving as chairman of the Community Chest

Mr Justice Tebbutt is a past president of the Owl Club, an exclusive invitation-only club of leading writers, artists and professionals in Cape Town

He commented on a number of issues

● On whether lawyers should be required to know Latin "I am a protagonist of Latin. It requires discipline and assists clear thinking, is necessary to understand legal terms and improves one's English"

● On sentencing criminals "One must know all one can about the chap one is sentencing to assess what punishment is appropriate I am not a radical judge — I prefer to think of myself as a moderate I think there is a case for increased emphasis on community punishment I am not in favour of corporal punishment for adults This should be given only with the greatest discretion"

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● On the future of the judiciary and the legal profession "I am optimistic The Bench is widely respected for its impartiality by not only the man in the street but also the government."

● On the future of sport in South Africa· "We are out of the bottom of the dip in terms of sport isolation Sport is almost completely integrated and this will put us on the upward slope"

● On UCT. "I have faith in the young people at UCT Those who have attracted adverse publicity are a tiny minority"

● On his fellow man "I am not a cynic I am a born optimist I love people and I love socialising One of the best things about broadcasting, for instance, was the fine bunch of broadcasters I worked with"

● On charitable work "At the moment the charities I'm involved in include the Woodside Sanctuary, the Chris Burger Fund, the Association for the Disabled and the Playing Fields Association I wish I could do more but I do not have the time"

● On his career "I have been a journalist, a broadcaster, a businessman and a lawyer. Of those I love the law best If I hadn't been a lawyer I would have been a journalist."

● On being a judge "The compensations of the drop in income from being a senior counsel are the objectivity of the Bench, the security and the pension I have found the job rewarding and will continue to do so till my retirement in a few years' time at 70"

Bill of rights 'cannot be imposed from top'

DURBAN — A bill of rights had to reflect the rights and freedoms people had worked for and aspired to and, therefore, could not be imposed from the top down, NDM MP Peter Gastrow said at the weekend

He told a right-to-speak conference that unless a government was democratically elected at regular intervals, and the people were determined to uphold human rights, "the restrictions which a bill of rights always does place on the right to speak can, and will be, abused by government".

He said: "A bill of rights can, therefore, only be effective and achieve its objective in a truly democratic society. This is so because the final arbiter must always be the people who should be in a position to replace a government which abuses its power by undermining basic freedoms.

"The attitude of citizens within a state towards human rights and the degree to which a government is representative of the people determines, in the last resort, whether a bill of rights will protect the fundamental freedom of its own citizens."

Gastrow said Natal/KwaZulu was witnessing a struggle around the right to speak at the moment. Many deaths were caused because people were not allowed to propagate their views and opinions.

He said: "One of the causes central to many attacks of violence and unrest in Natal during the past two years has been the striving for the right to speak." — Sapa

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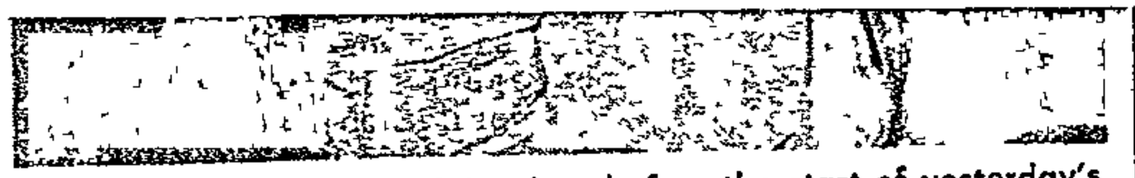
B/day

8/11/88



In the dock . . Mr Barend Strydom before the start of yesterday's hearing in the Pretoria Magistrate's Court. He is alleged to have killed six people and wounded 17 others in Pretoria on Tuesday.

Three Delmas trialists acquitted during summing up

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By Adele Baleta
and Jo-Anne Collinge

Three accused in the "Delmas" treason trial were acquitted yesterday and walked joyously out of Pretoria's Palace of Justice, but the verdict on 16 trialists is still to come and the judge has already found that the State has proved its main charge of treason.

The men who were discharged at the end of the 440th court day are Mr Patrick Baleka (29), Mr Oupa Hlomuka (35) and the Rev Geoff Moselane (42)

Gasps rose from the gallery each time the words "not guilty and discharged" were heard.

Shortly afterwards, as the court adjourned, the remaining accused mobbed the three Warm embraces were exchanged with the defence lawyers

The acquittals bring to six the number of men discharged in the trial Mr Lazarus More, Mr Simon Vilakazi and Mr Amos Malindi were acquitted two years ago

Mr Justice K van Dijkhorst described those acquitted as falling into the Black Consciousness group of accused. The other two groups were the UDF group and the Vaal Civic Association group

The UDF group comprises three key figures in national secretary Mr Popo Molefe, publicity secretary Mr Terror Lekota and former Transvaal secretary Mr Moss Chikane

The crucial finding that treason had been proved came some hours before the acquittals

The essence of the charge is that the UDF, either alone or in concert with the ANC, plotted the violent overthrow of the State by mobilising and activating the masses in such a way as to make the country ungovernable

Mr Justice van Dijkhorst observed that when riots broke out countrywide in 1984 in protest against black local authorities, the UDF had fanned the flames

The rioters were "executing UDF policy", the judge said "At no stage did the UDF deplore the murder of councillors" and destruction of their property

The UDF had openly sided with the ANC

"The UDF's intent was no less hostile from that which one would find in a state of war in the case of treasonable action," he said, allowing that not all UDF supporters were co-conspirators

statement as "ominous" in the light of what had later developed in the Vaal

Alternative to the main charge of treason are charges of sedition and terrorism Alternative to the latter are five counts

cillors, the judge concluded "It has not been proved that VCA speakers called for violence at the meetings before the march"

He said councillors were attacked and vilified and "no effort spared to move the people

a dominant section of UDF leadership functioned as an internal wing of the ANC, the judge could find no such conspiracy between the VCA and ANC

The judgment will continue today

Pretoria's courtroom of contradictions

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By PATRICK LAURENCE

The positive effects of the much rumoured release of Nelson Mandela and other ageing political prisoners could be blunted by the jailing of the men convicted of treason last week

The conviction for treason on Friday of four leaders of the extra-parliamentary opposition left two startling contradictions in its wake, the first political and the second legal The political contradiction was dramatically highlighted by the venue and timing of judgment in which the four — Patrick Lekota, Popo Molefe, Moss Chikane and Tom Manthatha — were convicted

The more than 1 500-page judgment was delivered in the same historic courtroom in Pretoria's Palace of Justice where ANC leader Nelson Mandela was sent to jail for life nearly a quarter of century ago It came amid renewed speculation, some of it fuelled from official sources, that Mandela might be freed soon

The trial judge, Mr Justice K van Dijkhorst, still has to hear evidence in mitigation when the trial resumes on December 5 But, barring an unforeseen and extraordinary development, the conviction of the four men foreshadows their imprisonment

Their imminent incarceration thus coincides with plans to release Mandela, and raises the prospect of their paths crossing, as he and the men who were jailed with him after the Rivonia trial of 1964 come out, they might go in

Three of the four convicted men — Lekota, Molefe and Chikane — occupied pivotal positions in the United Democratic Front which, before it was shackled by government restrictions and the detention and prosecution of its leaders, was SA's biggest extra-parliamentary organisation

Judge van Dijkhorst found that ANC president Mr Oliver Tambo's call for the formation of a united front in January 1983 was a major factor in the emergence of the UDF that year He further concluded that a dominant part of the UDF leadership functioned as the internal wing of the ANC

Extrapolating from his judgment, the trio of UDF leaders might be said to form a new generation of ANC leaders

Thus, in a very real sense, the scene is set for the enactment of a stunning paradox: the jailing of a new generation of ANC leaders just when the release of their predecessors and mentors is on the cards

Judge van Dijkhorst's judgment invites use of the word "mentor" to describe the relationship between Mandela and Lekota

As he remarked, Lekota — whom he described as "very pro-ANC" — had been jailed before In 1976 he was one of nine young Black Consciousness leaders jailed for conspiring to commit acts capable of endangering the maintenance of law and order He spent some time on Robben Island with Mandela where — in the judge's phrase — he learnt the history of the oppression of black people at "Mandela's knee" and "learnt his lessons very well"

By the same logic, even Manthatha, who has a long history of deep commitment to the Black Consciousness philosophy, can be placed in the ANC mould, albeit imperfectly and not altogether comfortably

He was a founder member of the Soweto Civic Association, an affiliate organisation of the UDF Moreover, according to the judge, Manthatha identified with the UDF's overall aim of causing the downfall of the Government by making SA ungovernable through mass action

But, political observers pointed out at the weekend, the Government is unlikely to gain much if its release of a set of ageing but revered ANC leaders is coupled with the jailing of their successors The Congress of SA Trade Unions made that point in its reaction to Mr Justice van Dijkhorst's decision It said the jailing of leaders who had a crucial role to play in a negotiated settlement would be a major blunder

Release of the new generation of black leaders could very well move quickly to the top of the agenda of the black opposition forces

Archbishop Desmond Tutu gave notice of that when he said after Friday's judgment "If any of these people are sent to prison, I will not rest until I get them out"

The controversial nature of the verdict will add impetus to demands for their release, as the Rev Frank Chikane, general secretary of the SA Council of Churches, made clear in his reaction to the verdict

It meant, he said, that anyone who was intelligent, informed and who provided leadership to the black community, risked indictment and conviction for treason

In that context it is relevant to record that the men in the dock before Mr Justice van Dijkhorst formally asked for his recusal, a request that was turned down The application was prompted by Judge van Dijkhorst's dismissal of one his assessors, Professor W A Joubert, after the judge learnt that he had signed a UDF petition

But Mr Justice van Dijkhorst refused a defence request to dismiss the second assessor, Mr W F Krugel Mr Krugel is a member of the Broederbond, an organisation that those on trial contended had a key role in formulation of Government policies to which they were vehemently opposed

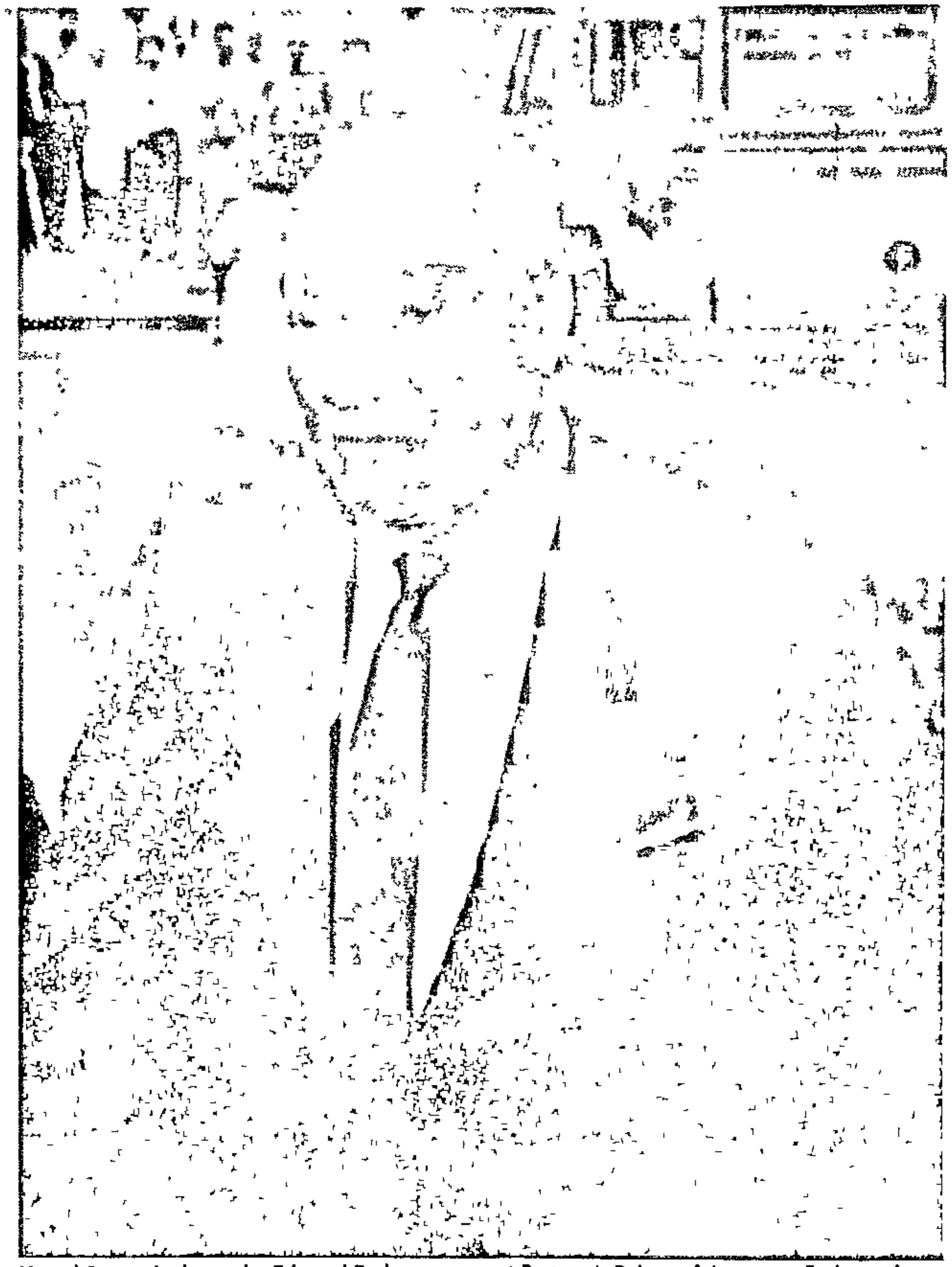
The Pretoria treason convictions also highlighted a legal anomaly They contrasted with, and in many ways contradicted, the acquittal in another treason trial of UDF leaders who worked closely with Lekota, Molefe and Chikane

Top leaders of the UDF and its affiliates who were acquitted in the second trial, held in Maritzburg in 1985, included Mrs Albertina Sisulu, Mr Archie Gumede — two of the UDF's three presidents — the Rev Chikane, Mr Essop Jasset, Mr Cassim Saloogee and Professor Ismail Mohammed

The charges in the Maritzburg trial were substantially similar to those in the trial before Mr Justice van Dijkhorst Like the accused in Pretoria, those on trial in Maritzburg were charged with conspiring with the ANC to make South Africa ungovernable Unlike those on trial in Pretoria, they were acquitted

Lekota and Molefe were named as conspirators in the Maritzburg trial Had they been arrested at the time, they might have joined the 16 in the dock in Maritzburg as accused 17 and 18 If so, they would probably have been acquitted with them

Conversely, the Maritzburg trialists were named as conspirators in the trial heard before Mr Justice van Dijkhorst Many were in court on Friday as free men to witness the conviction of their comrades



United States Ambassador Edward Perkins arrives at Pretoria's Palace of Justice on Friday to hear judgment in the "Delmas" treason trial

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'Trojan horse' case will go to court

By RUTH GOLEMBO

THE families of the three teenagers who died in the infamous "Trojan horse" case are to institute a private prosecution against the police who allegedly shot their children

This week the Attorney-General of the Cape, Mr Niel Roussouw, who decided not to prosecute the policemen after an inquest found they were responsible for the deaths, issued a non-prosecution certificate for the attorneys acting for the families of the dead

The youths died — two from shots in the back — after police hiding in crates on a truck emerged and opened fire on a crowd with shotguns

At the inquest, the magistrate, Mr G Hoffman, found the police were negligent in causing the deaths.

Gary Jansen, the attorney acting for victims Michael Miranda, 11, Shaun Magmoed, 16, and Johanthan Klassen, 20, said he had instructions to proceed with a private prosecution against 13 police and Defence Force members.

Fiery

The prosecution will be set in motion this week.

If it succeeds, Mr Roussouw, whose decision not to prosecute the policemen involved was highly controversial, may find himself in hot water. A raging debate, including fiery exchanges in Parliament, erupted afterwards.

The families' action this week sparked off renewed rumours in Cape Town that Mr Roussouw could face the axe over his decision not to allow the State to prosecute.

Mr Roussouw, who was in Pretoria this week to meet with the Director General of Justice, Mr S S van der Merwe, said in a joint statement with Mr Van der Merwe that talk of his impending resignation was "absolute rubbish".

CITY PRESS, November 13, 1988

Capital punishment strongly criticised

C. Press 13/11/88

THE possibility of judicial error in sentencing a man to death by hanging in South Africa is strong, according to a senior judge, Justice Leon QC, Chancellor of Natal University

Addressing the meeting at Wits University last weekend for the reconstitution of the Society for the Abolition of the Death Penalty, Judge said the Rev Dr Junod, who spent 28 years ministering to prisoners, had visited 2 000 blacks in the death cells

He had accompanied 800 blacks to the gallows and was convinced that mistakes had been made

The judge said that 20 years ago the late Prof Barend van Niekerk sent a questionnaire on the death penalty to the practising members of the South Africa Bar.

He said 78 percent of the members who replied believed that it was not impossible for an innocent man to be hanged for the crime of another

"In my own experience I have heard the main State witness implicate the accused when he should have been standing in the dock himself

"Can we be certain that in every case where a conviction for murder has taken place that there has been no possibility of error?"

The judge said that a recent study in the US had concluded that since 1900, 343 people had been wrongly convicted of capital crimes in US, and 25 of them were actually executed

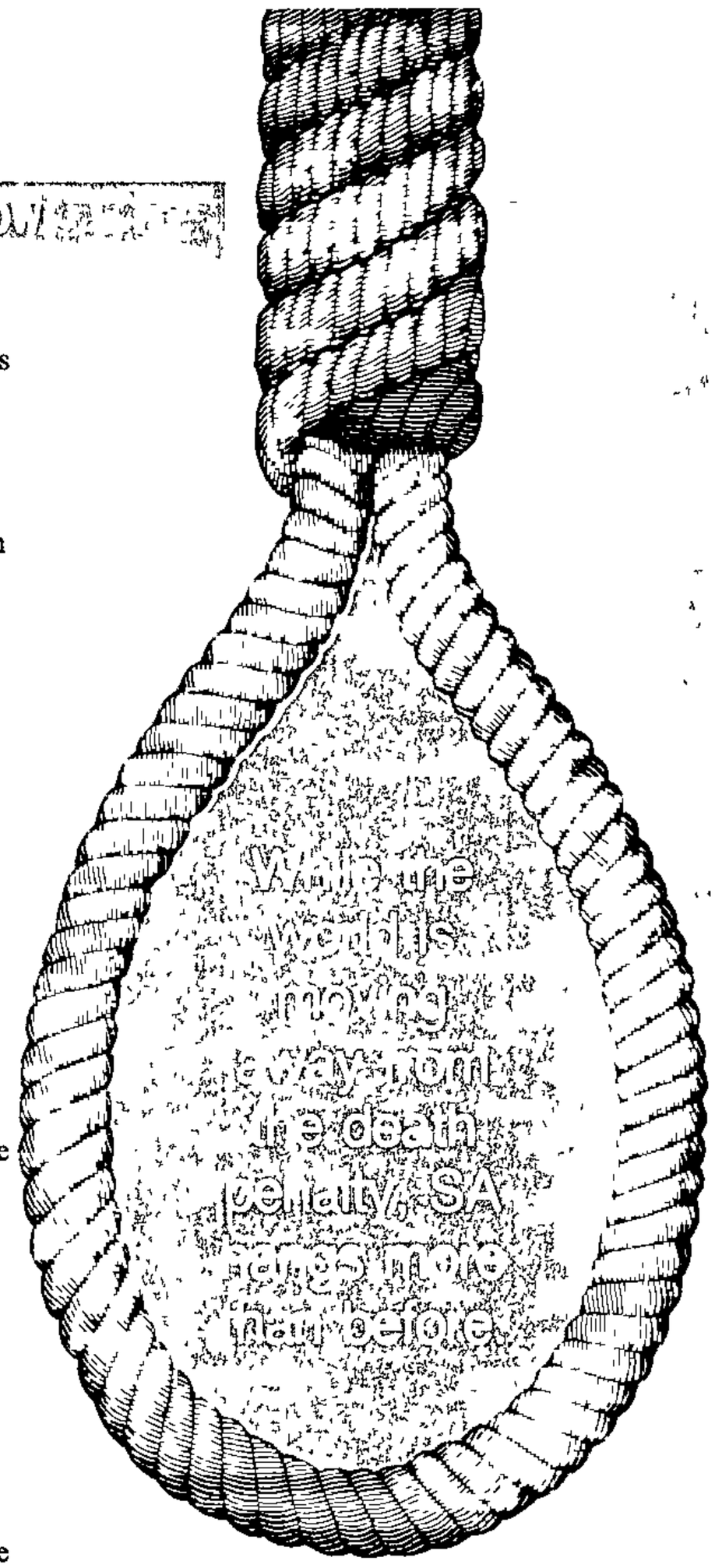
He said in SA the possibility of judicial error was compounded by two further factors, the pro deo system and the use of interpreters

The judge said the pro deo system, which provided free counsel for an accused, meant the most inexperienced and sometimes most incompetent counsel were chosen

He said that nuances were often lost in interpretation and "one does not get through to the accused to the same extent as one would if one was speaking the same language

"It is not easy for a white judge to put himself in the shoes of a black accused

"Moreover in the pro deo system attorneys are not involved which means that the investigative process is significantly reduced This lack of someone to research the



housebreaking with intent to commit an offence, and terrorism (as defined in the Internal Security Act of 1982).

Leon said that in SA a judge is compelled to give the death sentence if the court can find no extenuating circumstances, and although he was strongly opposed to the death sentence, he was compelled during his 20 years on the bench to sentence as many as 20 people to be executed

He said he had sleepless nights before and after the verdict and sentence

"There were times when I would awake in the middle of the night with thoughts such as these.

"Would the result have been the same in the hands of more experienced and more competent counsel?

"Did I ask all the questions I should have asked?

"Had the defence made sufficient investigations?

"What was the possibility of an error?"

The judge said in his last two years of office he suffered from severe health problems and received medical advice that he should retire

"I do not suggest that the problems were caused by the fact that I was obliged on occasion to impose the death sentence but when I was allowed to retire I was greatly relieved that I would no longer be obliged to pass such a sentence"

The judge said there was no proof that the death sentence added as a deterrent, and there was a distinct possibility of judicial

would urge that if the death sentence is to be retained that its imposition should be left to the discretion of the trial court with an automatic right of appeal when it is imposed"

President of the society, Prof Ellison Kahn, said that when the organisation was originally formed in 1971, it had met with some success

"It appeared that the number of executions was on the downward trend – from 81 executions in 1970, to 70 in 1971, to 46 in 1972, to 41 in 1973"

have been sentenced for murder

"From the creation of the Union of SA in 1910 until the present over 4 200 persons have been hanged

"Surely this is cause for concern In a recent speech Judge Tebutt of the Cape Provincial Bench made these striking remarks

'We who are on the Bench and have to pass the death sentence are sentencing far too many people to death But the public often say that there should be more death sentences passed

commission to inquire into every aspect of the administration of the death penalty

"The principal issues for investigation are already plain to most people who have had to deal with our capital sentence system Why are so many crimes punishable by death?

"Do the appelate courts scrutinise capital sentences sufficiently closely?

"Ought there not to be an automatic right of appeal?

"To what extent does racial bias contaminate capital sentencing?

"The relaunch committee will advise the new executive to make an immediate formal request for the appointment of a judicial commission of inquiry and for a moratorium on all future executions pending the report of the commission

"Should the government fail to accede to that request, we will suggest that the society assume that responsibility itself.

"We will recommend that the society institute its own commission of inquiry to undertake the task which should be done by government

13/11/88 C. Press

background of the case is relevant not only to the merits, but also to the question as to whether there are extenuating circumstances."

Speakers at the meeting stressed that whereas most of the world was moving away from the death penalty, South Africa was executing more people than ever before.

And since 1958 the government has added to the list of capital crimes. At that stage they were murder, rape and treason, the latter two discretionary. Today the court can also impose death for attempted robbery and housebreaking, or attempted error and an element of chance.

There was also the chance of who sits on appeal. Some courts of appeal are extremely reluctant to interfere with the factual findings of the trial judge, and other courts interfered more readily.

"My anxieties about the death sentence are not allayed by the fact that there is no automatic right to appeal."

The judge said he felt the case for the abolition of the death sentence was strong and there was considerable merit in the idea of a full-scale, in-depth investigation into the matter.

"Alternatively, I

nately after 1974 the society became morbid for various reasons.

"In 1986, 121 people were executed, in 1987, 164, the highest figure ever, and by the end of October this year 103. And these figures do not include executions in Transkei, Bophuthatswana, Venda and Ciskei. In 1987 there were 20 reprieves; a lower proportion than in the previous nine years.

"Of the 164 hanged last year, 102 were black men, 63 coloured men and nine were white men. Of the blacks, 86 were executed for murder, two for rape and three for robbery with aggravating circumstances. All the whites are believed to

and that we are too lenient. It is an interesting thing that some people are so free with others' lives'."

Prof Etienne Mureinik, chairman of the committee to re-launch the society, called for the government to appoint a judicial

C. Press

13/11/88

Witness review is urged

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Star 10/11/88

Staff Reporter

The Witwatersrand Chamber of Commerce and Industry (WCCI) has appealed to authorities at the Johannesburg Magistrate's Court to introduce a system whereby witnesses appear in court only when needed

Joint chairman of the WCCI/SAP Crime Prevention Liaison Committee Mr Rob Reunert said yesterday there had been a number of recent incidents in which shopkeepers had asked the police not to press charges after alleged criminals have been apprehended

"Most people cannot afford the time to become involved in lengthy court cases, particularly if they are required to sit endlessly in court waiting for a case to be called And then once the case has been called, for it to be remanded

"The present system of making witnesses waste hours and sometimes days arose out of an age when time was not the precious commodity that it is today. It should be borne in mind that witnesses are providing a service to the community and that the time they spend in court should be kept to the absolute minimum

"If we are to make an impact in ridding Johannesburg of crime, people need to be encouraged to co-operate with the law," he said

muti.

Pic. LEN KUMALO

21 (Convicted for political offences) IN FOR LIFE

Sowetan 14/11/88

252

By MOJALEFA MOSEKI

AT LEAST 21 people are serving life sentences for political offences in South Africa, the Human Rights Commission revealed yesterday.

Among them is Mr Nelson Mandela, the world's best known political prisoner.

Eighteen of the 21 men are members of the African National Congress (ANC) while one belongs to the Pan Africanist Congress (PAC). The other three were sent to jail for politically motivated offences but do not belong to any of the well-known political organisations

A spokesperson for the HRC, Ms Ruth Jackson, said the 21 prisoners have served almost 300 years in jail

The longest serving life prisoner in South Africa is Mr Jeff Masemola, presently at Diepkloof Prison, who was sen-

• To Page 2

REPORTS, pictures and comment in this edition may be censored in terms of the Government's state of emergency

P.T.O

21 are serving life

• From Page 1

tenced in June 1963 for sabotage. He was convicted with five other PAC members.

The names of the 21 as supplied by the HRC are (the dates on which they were sentenced are in brackets): Mr Masemola (1963), Mr Mandela (1964), Mr Walter Sisulu (1964), Mr Elias Motsoaledi (1964); Mr Andrew Mlangeni (1964), Mr Ahmed Kathrada (1964), Mr Raymond Mahlaba (1964), Mr Wilton Mkwayi (1964) and Mr Harry Gwala (1964); Mr Vusumuzi Nene (1977), Mr Matthews Mayiwa (1977), Mr Z Mdlalose (1977), Mr Petrus Mashigo (1982), Mr Johnson Lubisi (1982), Mr Johannes Shabangu (1982), Mr D Moise (1983), Mr Sanna Twala (1987), Mr Linda Hlophe (1987), Mr Daniel Mbokwane (1987), Mr Lizo Mgqungwana (1987), and Mr N Manana (1982)

Other life sentence prisoners like Mr Govan Mbeki and Mr John Nkosi have been released unconditionally The Government later placed gags on Mr Mbeki.

7 MORE TO HANG ON FRIDAY

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Sowetan 15/11/88

ANOTHER seven people have been given notice of execution, and are to be hanged on Friday, the Lawyers for Human Rights said in Pretoria yesterday

The condemned are Oupa John Masula, Rocky Rigadi, Freek Windvogel, Nooi Windvogel, Gladman Daymeni, Sampson Rala and Phillip Botha

LHR expressed itself against capital punishment in the strongest terms

"It is an abhorrent and uncivilised form of punishment which is contrary to the provisions of the Universal Declaration of Human Rights

"We again call upon the Government to declare a moratorium on all executions and to establish a commission of inquiry to investigate the high incidence of violent crime in South Africa and the whole question of capital punishment"

LHR's national director, Mr Brian Currin, said the organisation was once again monitoring the process of notice of execution, and ensuring that all available avenues had been exhausted to avoid execution if at all possible — Sapa

Star 15/11/87

Evidence plan for condemned ANC terrorist

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Pretoria Correspondent

The Department of Prison Services has suggested that a condemned prisoner's evidence "goes on commission" as he might be executed in the near future.

Robert John McBride was sentenced to death three times on three counts of murder and three of terrorism on April 13 last year in the Pietermaritzburg Supreme Court.

A petition for clemency, hand-delivered to the State President on June 21, is still pending.

One of McBride's co-accused, Greta Appelgren, who is presently serving a prison sentence, is sueing Natal Newspapers for R10 000 damages.

Appelgren was sentenced to 18 months imprisonment for the intent to do grievous bodily harm, aiding the escape of a prisoner (convicted African National Congress terrorist, Gordon Webster) and concealing and harbouring a prisoner.

McBride's legal representative then applied to the Department of Prison Services for McBride's possible testimony in Appelgren's defamation case against the Natal Newspapers

Although McBride's petition to the State President is still pending, the Prison Services said in a letter to McBride's legal representative "Due to the fact the Mr McBride is a condemned prisoner you will appreciate the fact that his safeguarding is of the utmost importance and should you require him as a witness in the said trial, such transfer will be very expensive

"Mr McBride might also be executed in the very near future, and this office therefore advises that you should rather consider an application for his evidence to be heard on commission.

"The necessary facilities are, and will be made available for such event at the Pretoria maximum security prison"

285 WAIT ON DEATH ROW

Sowetan 17/11/88 (252)

Seven of them are due to hang

THERE are 285 people awaiting execution at the Central Prison in Pretoria, the South African Prisons Services said yesterday.

By MOJALEFA MOSEKI

Seven of these have been given notice that they will be executed tomorrow The Lawyers for Human Rights indicated that they would apply for a stay of execution

Among the people presently on Death Row are 219 blacks, 43 coloureds, 17 whites and six Asians, according to the Prison Services Three of these are women, two black and one coloured

Speaking in Parliament on September 27, the Minister of Justice, Mr Kobie Coetzee, said 83 people on Death Row were convicted for "politically motivated" offences

The Human Rights Commission this week said it had the names of 67 people who are on Death Row for politically motivated offences

A spokesman for the Prisons Services said the cases of the 285 had not "yet been finalised," as there were still legal channels which had to be exhausted by the lawyers representing them

Applications for clemency were being submitted in cases of some of them Otherwise the executive authority considers cases in which the Appeal Court has not set aside conviction or sentence Reports from the presiding judge, Attorney-General, Minister of Justice, previous records and State law were considered in the process

According to the Amnesty International Annual report released last month South Africa has already executed 164 people The same number of people were executed last year and human rights groups said it was the highest in South African history and in the Western world South Africa has reportedly executed more than 700 people since 1983

Woman of the Year

AN elated Mrs Imelda Bolkanyo, a nursing sister in Winterveldt, near Pretoria, was yesterday chosen as the 1988 *Sowetan* Woman of the Year See pages 20, 21, 24.

Pic: MBUZENI ZULU

DEATH PENALTY

RADIO 702's John Berks is to host a talk show beginning at 9am today on the question whether the death penalty should be abolished and listeners are invited to participate in the discussion.

"Do you think the death penalty should be abolished?", will be the topic, and the guest will be Professor Ettienne Mureinik, an executive member of the recently relaunched Society for the Abolition of the Death Penalty in South Africa.

The death penalty is a controversial subject in South Africa and calls that it should be abolished have been growing in the last few months.

Including the homelands, there were 627 executions in South Africa between 1983 and 1987. This year there were at least 104 hangings.

Listeners will be invited to call the station and comment on the subject.

(252) Sowetan 17/11/88.

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Smith

Ashley Knel

17-23/11/88

Kriel inquest

THE inquest of slain Bonteheuwel youth leader Ashley Kriel will be held at the Wynberg magistrate's court on December 14

Circumstances surrounding Kriel's death have remained a mystery since he was shot dead in a "skirmish" with police at a home in Hazendal, Athlone, 15 months ago

The finding of the family's private pathologist, that 20-year-old Kriel had been shot at point-blank range, is expected to be presented as evidence at the inquest

However lawyer Christine Burger said the family was "presenting argument as to why oral evidence must be presented and has already requested that the inquest be open to the public"

A Wynberg court official said no decision had yet been made on these aspects.

Lawyers give up fight for six

18/11/88 252

By MOJALEFA MOSEKI

LAWYERS for Human Rights yesterday gave up the fight to save the lives of six of the seven men awaiting execution in the Central Prison in Pretoria The six are expected to be executed this morning

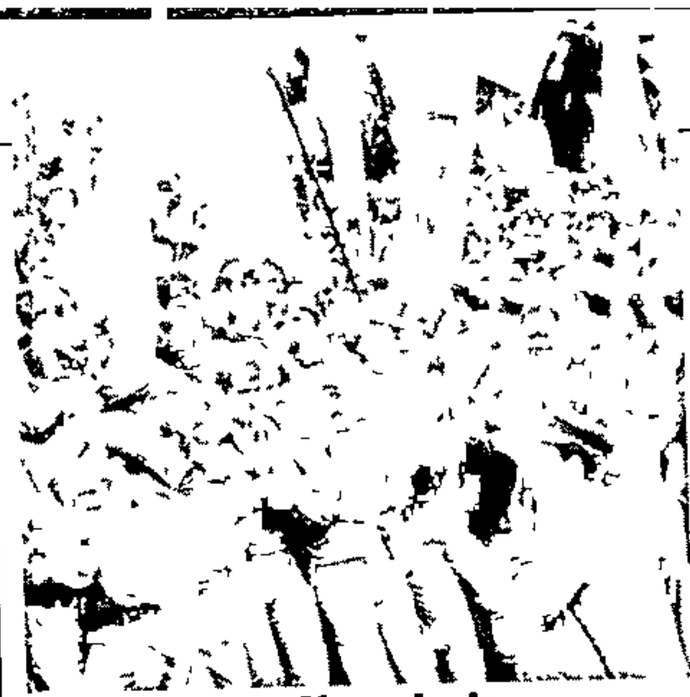
A team of attorneys representing the Lawyers for Human Rights (LHR) were late yesterday afternoon working around the clock to save the life of one of the seven men, Oupa Samuel Mogohlo The lawyers were preparing an application for a stay of execution The application was expected to be heard in the Pretoria Supreme Court last night

The director of the LHR, Mr Brian Currin, who led a team of lawyers that consulted with the condemned men early yesterday morning, said "We are hopeful of getting a stay of execution in the case of Mogohlo We made representations to the Minister of Justice pointing out that Mogohlo has not yet appealed to the Appeal Court in Bloemfontein and has not yet petitioned the State President for clemency It is on those grounds that we are applying for a stay of execution"

Stay

Mr Currin said at the end of the consultations they found that the six other men had "no chance" of being granted a stay of execution and would "probably be executed today"

The names of those to be executed today are Rocky Ridar, Nooi Windvogel, Gladman Dyamani, Samson Rala, Vreek Windvogel — all from Uitenhage in the Cape and Phillip Botha



Unrest in Yugoslavia ... measured tolerance of dissent

SOVIET HUMAN RIGHTS

A little cleaning up

The Soviet Union is pulling out most of the stops to smooth the last major obstacle to better relations with the West — the human rights issue.

Soviet officials have declared themselves ready for the "strictest examination" of contentious institutions such as prisons and psychiatric hospitals Last month Mikhail Gorbachev promised visiting West German Chancellor Helmut Kohl that all "political prisoners" would be freed by year's end

This alone begs the question of how to define a "political" detainee, and gives an indication of the problems ahead According to the human rights organisation Amnesty International, at the end of 1987 there were some 300 prisoners of conscience in the USSR — in prisons and mental hospitals or in exile

The Soviet authorities, however, contend that there are a mere 11 prisoners who could be described as political, with perhaps another 25 in psychiatric institutions

The Soviets' new eagerness to please is not purely philanthropic It forms an integral part of the disarmament chess game. The Conference on Security and Co-operation in Europe (CSCE) talks in Vienna are bogged down on human rights at the moment.

The CSCE talks must reach a satisfactory end before Nato and the Warsaw Pact countries can start on the next disarmament forum, the proposed Conventional Stability Talks. What is holding up CSCE is Moscow's desire to host a human rights conference. France, Italy and West Germany are in favour, but others, including Britain, are reluctant.

Britain wants to see more evidence of good faith on the Soviets' part. There is another category of prisoner, for example, which some would like to see liberated — religious convicts. Despite promises that they would all be freed by the 70th anniversary of the Revolution — in November last year — this year at least 175 are known still to be serving sentences for "performing illegal religious rites"

The liberalising of emigration from the Soviet Union is another issue which raises Western temperatures. The number of emigrants appears to be increasing, from 28 000 adults last year to 46 000 in the first nine months of this, 11 500 of them Jewish. Britain is also keen to stop the jamming of radio broadcasts — notably of the BBC's East European service.

Encouraging signs are beginning to emerge from within the heart of the system itself. Last month 31 members of the Supreme Soviet voted against laws allowing troops to search homes without a warrant, to make spot identity checks and to suppress protests and strikes. Another 26 deputies abstained.

It is now possible, though still not easy, to get permission to hold protests. Informal political groups are proliferating rapidly — 30 000 at last official count though that is almost certainly a conservative estimate. Yet stories of violent KGB breakups of protests, particularly among human rights groups and nationalist minorities, continue to leak out

But whereas human rights never used to be much of a bargaining lever with Moscow, the West now knows that is changing The Soviet Union will have to show it means what it says if it wants to keep rapprochement on the boil. ■

Six die on gallows in Pretoria

(252)

Star 18/11/88

Pretoria Bureau

Six men were executed at Pretoria Central Prison today, bringing to 110 the number of men hanged this year.

One of those set down for execution today, Samuel Mogotlo (34), received a last minute stay of execution last night when Mr Acting Justice Human allowed him until November 22 to petition for the death sentence to be commuted.

He was convicted of murdering a night watchman in 1986.

Those hanged today were Oupa John Masuku (34), Louis Adriaan Daniel ("Pikkie") van der Westhuizen (29), Charles Adrian Kosztur (23), Freek Wondvogel (23), Flippie Botha (19) and Mthethezi Gladman Dayimani (22).

● See Page 5.

18/11/88 Star (252)

633 people executed in SA since 1983

By Jovial Rantao

Six people among the 285 people awaiting execution at Pretoria Central Prison were to be executed today, a spokesman for Lawyers for Human Rights confirmed yesterday.

The six bring the total number of people executed in South Africa since 1983 to 633

The six were:

- C A Kostzur, sentenced to death for the murder of a black woman
- Pikkie van der Westhuizen, sentenced to death for the murder of a 15-year-old schoolboy and the rape of the boy's sister.
- Oupa Masuku, sentenced to death for three murders
- Frik Windvogel, Flippie Botha and Mthetheni Gladam Dayamani, sentenced to death for a murder in Port Elizabeth.

The Human Rights Commission this week said it had the names of 67 people who are on death row for politically motivated offences.

Among the people on Death Row are 219 blacks, 43 coloureds, 17 whites and six Asians, according to the Prison Services. Three of these are women, two are black and one is coloured.

Speaking in Parliament on September 27, the Minister of Justice, Mr Kobie Coetzee, said 83 people on Death Row were convicted for "politically motivated offences".

Six hanged in Pretoria

PRETORIA — Six men went to the gallows here at dawn yesterday, taking the total of executions this year to 110, a Justice Department official said

The six were two white men, two coloured and two black.

A seventh man, S S K Mogohlo, was granted a last-minute stay of execution

The racial breakdown of those executed so far this year is 74 blacks, 33 coloured and three whites, the official said, adding that there were 279 people on death row

Last year 164 people were executed — Sapa

next summer if we experience further dif- up if long flight delays again arise from air Stanstead.

Gallows trio seen as pressure on SA

MICHAEL HARTNACK

HARARE — Human rights activists in Zimbabwe hope the sentencing to death of three former Rhodesian Security Force members, for bombing an ANC house, might persuade SA to reconsider the death penalty.

"It will be interesting to see the reaction of white South Africans and whether President P W Botha urges President Robert Mugabe not to hang them, as he had been urged by all and sundry not to hang people in SA," Roman Catholic Justice and Peace Commission chairman Michael Auret said yesterday.

Zimbabwe Chief Justice Enoch Dumbutshena, churchmen and other human rights activists recently campaigned for abolition of the death penalty in Zimbabwe.

The Justice and Peace Commission is gathering a petition to present to Mugabe who said at independence in 1980 no further hangings would take place.

Despite that, 26 people were hanged after executions recommenced in 1982, including two French former mercenaries for whom Pope John Paul appealed for clemency.

Six hangings in August were kept secret for a month

Auret said in an interview commission members were "terribly upset" by death penalties passed on Friday on Kevin John Woods, 35, Anthony Michael Smith, 34, and Philip Masiza Conjwayo, 54.

He believed, however, they were the only sentences that could have been given for their complicity in the murder of a Zambian driver when a remote-control bomb was detonated in Bulawayo on January 11.

"We will encourage the Zimbabwean government to commute their death sentences as soon as possible to give an example to SA," said Auret.

Woods told Judge Wilson Sandura it was moral injustice that they should be condemned to the gallows "while ANC terrorists roamed the streets of Zimbabwe".

He added "Our only motivation was on behalf of the people of SA who suffer mayhem and death nearly on a daily basis at the hands of these ANC murderers"

B/day 21/11/88

Sanctions shutdown for uranium mine

signals

DEATH MERCY PLEA

Sowetan 21/11/86

(252)

By MOKGADI PELA

LAWYERS for the man who was to hang last Friday have petitioned the State President for clemency

Paul Tefo Setlaba (24), was convicted of murder and public violence in Graaff-Reinet on December 10, 1986 The death sentence followed the killing of Julia Dilato who was doused with petrol and then set alight for defying a consumer boycott in Colesberg, Cape Province, in September 1985

At the time of the sentence, the trial judge found no extenuating circumstances It was found as a fact at the trial that he was not the one who lit the match that set the deceased alight

His conviction was based on the fact that he acted with a common purpose with the group that attacked the deceased

The lawyers further said that the matter was almost similar to that of the "Sharpeville Six"

In addition, a witness for the State, on the basis of whose evidence Setlaba was convicted, has now advised that he lied under oath, the lawyers' statement added

Trialists plan legal action

Sowetan 21/11/88

(252)

By MONK NKOMO

SOME of the Delmas treason trialists who were acquitted last week have threatened to take legal action against the State for "malicious prosecution"

The threat comes amid dissatisfaction expressed by community leaders at the conviction of 11 men, including three key leaders of the United Democratic Front, on charges of treason and terrorism by Mr Justice Van Dijkhorst in the Pretoria Supreme Court on Friday

UDF secretaries Popo Molefe, Patrick "Terror" Lekota, Moses Chikane and former secretary of the Soweto Civic Association, Tom Manthata, who was described as "a black radical" by the judge, were found guilty of treason

Those convicted of terrorism included 63-year-old Sam Matlole, Petrus Malindi, David Mphuthi, Naphtalie Nkopane, Tebello Ramakgula, John Mokoena and Jacob Hlonyane

SHOCK FOR DEATH ROW MAN

ROBERT John McBride (24), who last year received triple death sentences for the murder of three young women who died in a Durban bomb blast in 1986, may hang sooner than expected, his lawyers revealed this week. Sowetan

By THEMBA MOLEFE

21/11/88

McBride was given the death sentences in the Maritzburg Supreme Court by Mr Justice Shearer on April 13, 1987 His co-accused and girlfriend, Greta Appelgreen (30), was sentenced to one year and nine months' jail

The startling revelation that McBride would hang in "the very near future" was made by Durban attorney Mr Roshan Dehal after corresponding with the Department of Prisons in which the testimony of McBride was sought in a pending R10 000 civil case between Appelgreen and Natal Newspapers

Mr Dehal said that on October 13 he wrote a letter to the Commissioner of Prisons requesting that McBride be allowed to travel to Durban where he would be a witness in the defamation hearing between Appelgreen and The Natal Mercury. The hearing has been set down for January 25, 26 and 27, 1989.

In the reply the Commissioner of Prisons, through lieutenant F J Muller, said.

"Due to the fact that Mr McBride is a condemned prisoner you will appreciate that his safeguarding is of the utmost importance and should you require him as a witness in the said trial, such transfer will be very expensive

"Mr McBride might also be executed in the very near future, and this office advises that you should rather consider an application for his evidence to be heard on commission The necessary facilities is (sic), and will be made available for such event at Pretoria Maximum Prison," the letter said

It said further "Kindly note that this office does not have any control whatsoever regarding the date on which the execution might take place. However, your request was brought to the attention of the Directorate of Justice." The letter was written on November 1

Star 22/11/88 (252)

Seven men due to be executed this week

By Dawn Barkhuizen

Seven people are expected to be executed in Pretoria Central Prison on Thursday, a spokesman for Lawyers for Human Rights said last night Six people were executed on Friday

Clemency appeals by three of the condemned men — Paul Setlaba of Colesberg and Kholisile Dyakala and Zwelindumile Mjekula of Port Elizabeth — have been rejected by President Botha

All that is known of the other four are their names — Mxolisi Tshongoyi, Paul Sederas, Freddie Jantjies and Arthur Stevens — and that they are from Cape Town, the lawyer said.

Paul Setlaba (24) was sentenced to death on December 10 1986 for his part in the death of Mrs Julia Dilato on October 2 1985 Petrol was poured over Mrs Dilato and she was burnt to death after she bought meat during a consumer boycott and then reported to police that she had been harassed as a result.

SECURITY GUARD

The court rejected Setlaba's evidence that all he had done was fetch a tyre that was never used He claimed that by the time he returned, a group had already set upon the woman and she was already burning.

Kholisile Dyakala (31) and Zwelindumile Mjekula (36) were sentenced to death for murdering a security guard, Mr Gordon Gould, in June 1986.

Their lawyer, Mr Thole Majodina, yesterday said the Department of Justice had not told him the petition had been turned down He learnt this only when relatives of the convicted men informed him that they been granted rail tickets to visit the men before they were hanged.

In convicting the two, Mr Justice Solomon found that Mjekula had associated himself with others; in particular Dyakala, in a common purpose to rob the guard of his firearm.

Mjekula said he had distanced himself from the shooting, but the judge found that Mjekula knew that Dyakala was carrying a firearm and must have appreciated that in the circumstances they might have had to rely on it to rob the security guard

Picture: GLENN SHERRATT

WCC slam executions

HARARE — A major focus of this week's World Council of Churches (WCC) conference to combat racism will be a strong protest to stop apartheid executions, reports Ziana news agency, quoting conference sources on Sunday

The sources suggested that the government might execute as many as 14 people on death row this week.

One of those expected to be executed is 23-year-old political activist Paul Tefo Setlaba

A document released at the WCC conference venue said Setlaba's execution was due to take place on June 10 this year On June 9, lawyers acting on his behalf obtained a stay of execution so that he could petition President P W Botha for clemency The petition was submitted in October.

Setlaba was sentenced to death in Colesberg Circuit Court on December 12, 1986

"No details of the case were reported in the press, except that he was convicted of murder for the death of a police informer killed by a group of youths in Bongweni in October 1985," says the document calling for a campaign to save his life

"The crime for which he was condemned — and we are not in a position to know whether in fact he committed the deed — was undoubtedly an act which arose out of political persecution," stated the document — Sapa

US lashes SA over 'Delmas' verdict

WASHINGTON — The United States accused the South African Government yesterday of misusing its judicial system in the recent convictions of prominent black South African activists

"Several of these defendants are highly regarded spokespersons for peaceful black opposition to the injustices wrought by apartheid in South Africa," said State Department spokesman Mr Charles Redman

"It's inconceivable that their political activities would have qualified as treason or terrorism in this country or any other democracy," he said

On Friday three leaders of the UDF and another black activist were convicted of treason after South Africa's longest trial

Seven other defendants were convicted of terrorism, which also carries a maximum penalty of death

"The clear intent of the Government during this trial has been to neutralise prominent black opponents through protracted judicial proceedings and imprisonment

"This misuse of the South African judicial system for political purposes is deplorable"

Mr Redman said the US was urging South Africa to ensure the defendants were given a speedy and impartial appeal

● Giving judgment, the presiding judge in the trial, Mr Justice K van Dijkhorst, proposed several measures which should be introduced to make such cases more efficient (252)

South African courts should be empowered to call pre-trial conferences to agree on certain issues and courts should be allowed to hear specific matters without waiting until the prosecution had completed its entire case, he said

In remarks before commencing his 1 500-page judgment, he criticised the length of the trial which lasted three years – Reuter

Seven to hang

252

Sowetan 22/11/88

SEVEN people — all from the Cape Province — are due to be executed in Pretoria Central Prison on Thursday, a spokesman for Lawyers for Human Rights said last night.

Six people were executed on Friday last week

Appeals for clemency by three of the men due to be executed have been rejected by the State President, Mr P W Botha

They are Paul Setlaba of Colesburg, Kholisile Dyakala and Zwelidumile Mjekula of Port Elizabeth

All that is known of the other four are their names — Mxolisi Tshongoyi, Paul Sederas, Freddie Jantjies and Arthur Stevens — and the fact that they are from Cape Town, the lawyers said

Execution outrageous, say objectors to death penalty

ARGUS 23/11/88

252

Staff Reporter

CAPITAL punishment was "brutal" and "outrageous" and its value as a deterrent had not been proven, speakers said at the Western Cape chapter of the Society for the Abolition of the Death Penalty in South Africa.

They were speaking at the relaunch of the society last night in Cape Town after it was dormant for some time.

Professor Dennis Davis of the University of Cape Town, national director of the society, said America's total of a mere 25 executions last year became a major presidential election issue

VIOLENT CRIME

This contrasted with 181 executions in South Africa and the homelands.

"Judicial killing has not been proved to be an answer to violent crime," said criminologist Mrs Fanny Gross

Execution did not deter killers

Miscarriages of justice could take place and innocent people had been executed

Attorney Mr Bulelani Ngcuka said the black majority of the population did not identify with the legal system, created by the "white oppressor" for his own benefit.

The question of opposition to the death penalty had to be addressed within this context.

In addition, he constantly had to justify his participation in a legal system which was "profoundly unjust".

MINIMAL CONSULTATION

The workings of the system also came under attack. Elements of pro Deo defence, in which mainly junior counsel took part, were "hardly adequate". Consultation was minimal and not a single advocate of the Cape Bar was fluent in Xhosa

Forensic psychiatrist Professor Toviah Zabow outlined the ethical problems posed by doctors' involvement in executions. He cited as an example the evaluation of Death Row prisoners to determine if they were fit for execution.

The Hippocratic Oath bound doctors to preserve life, he said

The Rev Andile Mbete, a Khayelitsha priest, said involvement in the death penalty amounted to being party to murder

Cape Times 23/11/88 (252)

Nations asked to appeal for clemency

By ANTHONY JOHNSON
Political Correspondent

THE Society for the Abolition of the Death Penalty has made an eleventh-hour appeal to six Western ambassadors in South Africa to "use your good offices" to persuade President P W Botha to stay tomorrow's execution of Paul Tefo Setlaba.

The society has also written to the state president asking him to exercise his powers of clemency

Setlaba was sentenced to death by Mr Justice D Kannemeyer for the murder of Ms Julia Dilato in Colesburg in 1985.

In a letter to the ambassadors of the United States, United Kingdom, Germany, France, Australia and Canada, the society's national director, Professor Denis Davis, notes that it did not wish "to disregard the sheer horror" of Ms Dilato's death

However, there were several reasons for requesting clemency.

Involvement 'remote'

● "Mr Setlaba has claimed throughout that his participation was far more remote than alleged

● "The trial judge observed that Colesburg was in a state of social disequilibrium at the time of the crime and that township residents were living "in unusual times" when violence and unrest were the order of the day.

● "A report by eminent psychologist Dr Chabani Mangani, of which the trial court did not have the benefit, shows Mr Setlaba was severely disturbed by an incident some months before, when a close friend was killed as a result of police action"

Professor Davis said that although the trial judge did not find extenuating circumstances to have existed, "we believe that there are substantial moral and social grounds for extenuation"

● The relaunch of the Western Cape Chapter of the Society for the Abolition of the Death Penalty took place in the Mowbray Town Hall last night

Sentence 'same as Sharpeville 6'

PAUL SETLABA'S sentence for murder is, in almost all respects, the same as the death sentence imposed on the Sharpeville Six, say attorneys acting for him

Mr Justice Kannemeyer convicted Setlaba using the doctrine of "common purpose".

Roshan Dehal and Associates of Durban said their client was found in the Eastern Cape Supreme Court to have "common purpose" with two other accused involved in the death of Ms Julia Dilato.

The two other accused, both under 21, were sentenced to an effective 17 years' imprisonment

The attorneys are now petitioning for the case to be reopened in view of new evidence which has emerged.

"There are some very strong factors in this trial which favour a call for clemency," Dehal and Associates said.

"A witness for the state, on the basis of whose evidence Setlaba was convicted, has now advised that he lied under oath, and was assaulted by the security police to do so"

Another circumstance, purported by the attorneys to support Setlaba's petition, was the matter of a youth who was not charged, but who allegedly held Ms Dilato while petrol was poured on her

In a petition for clemency rejected by President P W Botha, Setlaba, who was arrested while in his matric year at school, claimed he did not commit the murder. He admitted however to being on the scene and fetching a tyre, apparently for purposes of necklacing Mrs Dilato. He said he was "very unhappy" about his "limited involvement" in the murder. — Sapa

7 more due to hang tomorrow

Sowetan 23/11/88

(252)

By SONTI MASEKO

SEVEN more people awaiting execution at the Central Prison in Pretoria were yesterday given notice that they will be executed tomorrow, Lawyers for Human Rights national director, Mr Brian Currin, said yesterday.

This week's notice follows closely the execution of six people at the same prison last week. Initially seven people had been given notice but one of them was granted a stay of execution after the LHR filed an eleventh hour application for a stay of execution to petition the State President for clemency.

In the latest group of seven, three are believed to be political prisoners — two of whom are from Port Elizabeth and one from Natal. Four of the men are believed to have been convicted for non-political offences.

Exhausted

Mr Currin yesterday said they were investigating the possibility of applying for a stay of execution. At least three of the men had not exhausted all their legal channels for clemency.

The names of those to be executed are. Eric Kholisile Dyagala and Zwelidumile Njekula, both from Port Elizabeth, Paul Tefo Setlhaba from Natal, Mxolisi Tshongoyi, Paul Fedraf, Arthur Stevens and Freddie Jantjies, all from the Cape

Reprieve 'a step forward'

Star 24/11/88

By Lloyd Coutts

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The presidential reprieve of the "Sharpeville Six" — and that of the four policemen on death row — has been applauded as "a step forward" by organisations calling for for the abolition of the death penalty.

However, questions were raised on the criteria used in pardoning former policemen Jack la Grange, Robert van der Merwe, David Patrick Goosen and Leon de Villiers and convicted murderers Ajay Sookay, Shadrack M Nyati and Shadrack Masuko.

The chairman of Lawyers for Human Rights, Mr Brian Currin, said the reprieve granted to the Sharpeville Six was understandable in the light of the international furore and outcry.

"The problem is how were the others selected and what criteria were used. What about the others (on death row)? This highlights the need, all the more, for a commission of inquiry into the whole question of the death penalty," he said

The attorney representing the Six, Mr Prakesh Diar, said he was relieved his clients would not hang.

The Sharpeville Six reprieve was a "triumph for both international and local outrage", said the honorary director of the Society for the Abolition of the Death Penalty, Professor Dennis Davis.

However, the "broader implications" of the Sharpeville Six controversy had to be addressed and the death penalty abolished

Churches plea to stop execution

URGENT messages are being sent to Western governments from the World Council of Churches (WCC) conference in Harare calling on them to urge Pretoria to stop the execution of an anti-apartheid activist this week, the national news agency *Ziana* reports.

Initiated by British Bishop Simon Barrington-Ward of Coventry, who is also head of the International Affairs for Social Responsibility, the message to the British Government calls for immediate action to save the life of 23-year-old political activist, Paul Tefo Setlaba.

The call is a response to an appeal at the conference of the World Council of Churches' Programme to Combat Racism. Setlaba's execution was due to take place on June 10, this year.

On June 9, lawyers acting on his behalf succeeded in obtaining a stay of execution so that he could petition State President Mr P W Botha for clemency. The petition was submitted in October.

In his letter to the British Deputy Foreign Secretary, Mrs Linda Chalker, Bishop Barrington-Ward said his delegation had heard of the disturbingly high number of black South Africans executed over the last two years and those facing execution for political offences.

He pointed out that today Paul Setlaba is to be executed.

South Africans attending the conference said the crimes for which

said the crime for which he was condemned was undoubtedly an act which arose out of political persecution.—Sapa

PLEA TO END DEATH PENALTY

Sowetan 24/11/88

200 loved ones petition PW

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FRIENDS and relatives of prisoners on death row yesterday handed a petition to the State President's office at the Union Buildings, including a passionate appeal for the abolition of the death penalty.

The petition, signed by more than 200 friends and relatives, said "We write this letter to you on their behalf, and on behalf of the many people who have already been killed in this horrible way"

The petitioners include the wives of condemned former police officers, Jack la Grange and Robert van der Merwe as well as the relatives of the Sharpeville Six

The petition was handed over by a group of family and friends of the condemned who specially made the journey to the Union Buildings

"We are appealing to you to stop this hanging because it is causing nothing but bitterness, pain and hardship to people in this country

"We feel that there is hope for every person, no matter what they have done, and each person should be given the chance to reform

"Giving someone a life sentence at least gives him or her the time and the opportunity to make amends to society"

The petitioners asked whether judges had the right to decide between life and death

"You too are an ordinary human being, yet you are often forced to choose who is granted clemency and who is not This is a heavy burden of responsibility"

Application to stop hanging

Sowetan 24/11/84 (252)

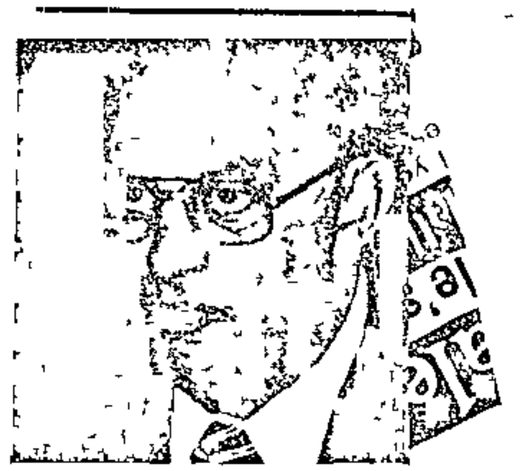
LAWYERS yesterday launched an application to save Paul Tepo Setlaba from being executed today

Setlaba (23), was sentenced to death by the Eastern Cape division of the Supreme Court for his part in the killing of a woman during the consumer boycott in Colesberg. The application is being heard in the Pretoria Supreme Court

Mr S Gyanda is arguing before Mr Justice Eloff for a stay of execution on the basis of an affidavit that the State witness on whose evidence Setlaba was convicted lied to the trial court

Setlaba was originally to have hanged on June 10 this year but a stay was granted on June 9 to enable the State President to be petitioned on his behalf —Sapa

REPRIEVES



President P W Botha

Cape Times 24/11/88.

Sharpeville Six among 13 not to hang

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THE "Sharpeville Six" — with seven others, including four white policemen — were last night saved from the gallows by President P W Botha.

The reprieve for the Six — whose case had been taken up around the world — came within hours of the Appeal Court rejecting an application to reopen their trial.

The Six, five men and a woman, were sentenced to hang for the "common cause' murder of Sharpeville deputy mayor Mr Khuzwayo Dlamini on September 3, 1984. Mr Dlamini was lured from his house, stoned, beaten, doused with petrol and set alight by a 100-strong mob at the height of rent riots which marked the beginning of the nationwide unrest that led to the imposition of the state of emergency

Duma Joseph Khumalo and Francis Don Mokgesi will now serve 25 years, Reginald Sefatsa 20 years and the other three, Mojalefa Reid Malebo Mokoena, Oupa Moses Diniso and Theresa Ramashamola, 18 years each. Their sentences will run concurrently with the eight years they each received for subversion.

Diplomatic crisis

The four policemen convicted of murder in two separate trials are Hendrik Johannes "Jack" la Grange and Robert Edmund van der Merwe, found guilty of killing two Johannesburg drug dealers, and David Patrick Goosen and Leon de Villiers, sent to death row for murdering a man in the Cradock area.

La Grange had his sentence commuted to 25 years and Van der Merwe to 15 years Goosen will also serve 15 years and De Villiers 20

The other three reprieved from the gallows are Ajay Sookay, Shadrack M Nyati and Shadrack Masuko, convicted of three separate murders They will now serve 20 years each.

News of the reprieve of the Sharpeville Six triggered celebrations around the world after a day of dismay in the wake of the Appeal Court decision.

Mr Botha's decision ended the threat of a major diplomatic crisis for South Africa. Last month it was disclosed that all the European Community ambassadors had been placed on standby to return "for consultations" if the Six were not reprieved

The British government last night said it "greatly welcomed" the news — a reaction echoed in Paris, Bonn, the Hague and other capitals

The US Embassy also welcomed the decision, saying Mr Botha "has acted in the interests of South Africa as a whole" It said that while its government and many others had appealed for clemency, "the essential fact is that the decision was the State President's alone"

But a lawyer for the Six, Mr Prakash Diar, said the length of the prison terms substituted for the death penalty were "absolutely disgusting"

"I'm relieved that they are not going to hang, but I am disappointed that they are going to serve long terms in prison They do not deserve that," Mr Diar said

A weeping Mrs Julia Ramashamola, Theresa Ramashamola's mother, said "I am so happy My child can go to prison for 18 years or 20 years, as long as I know as she is alive."

Earlier in the day, when Mr Diar told the Six that their application for the re-opening of their trial had failed, they had been 'very dejected", the lawyer said

The president of the Democratic Lawyers' Association, Mr Dullah Omar, said he welcomed the news "It's a big relief. But I wonder whether the reprieve was not to justify the reprieve of the four white policemen"

The Black Sash said it was "overjoyed at the reprieve of the Sharpeville Six and the four policemen and that we call on the State President to declare a moratorium on all hangings"

The national chairman of the Progressive Federal Party Mr Colin Eglin, said he was "pleased that the State President has used his prerogative to give clemency

'Special significance'

"As far as the Sharpeville Six are concerned, the reprieve is of special significance in respect of South Africa's relations both internally and abroad"

He added that "in April last year, Mrs Helen Suzman and I called on the State President at Tuynhuys to grant a reprieve, and I am glad that the circumstances have arisen for him now to do so"

The massive international campaign to save the Six was led from the offices of the British Anti-Apartheid Movement, where organising secretary Mr Mike Terry was drowned out by cheers and screams of joy as he tried to make a statement.

Mr Niall McDermid, secretary-general of the International Commission of Jurists, said the reprieves were "a great relief — a most shameful verdict has been prevented".

Earlier yesterday the Bloemfontein Appeal Court ruled out a reopening of the Six's trial.

Mr Justice Rabie, in a 91-page judgment, said he did not think it could be said that Mr Acting Justice Human erred in any way in the conclusion to which he came on the matter

Mr Justice Corbett, Mr Justice Joubert, Mr Justice Hoexter and Mr Justice Van Heerden concurred. — Political and Staff Reporters with Sapa, Reuter and UPI

No stay of death for Paul Setlaba

PRETORIA. — An application to save Paul Tepo Setlaba from being executed today was unsuccessful, Lawyers for Human Rights said here yesterday

Setlaba, 23, who was sentenced to death by the Eastern Cape division of the Supreme Court for his part in the killing of a woman during the consumer boycott in Colesberg, is due to be executed after an application was dismissed in the Pretoria Supreme Court yesterday

Mr S Gyanda argued before Mr Justice Eloff for a stay of execution on the basis of an affidavit that the state witness on whose evidence Setlaba was convicted lied to the trial court.

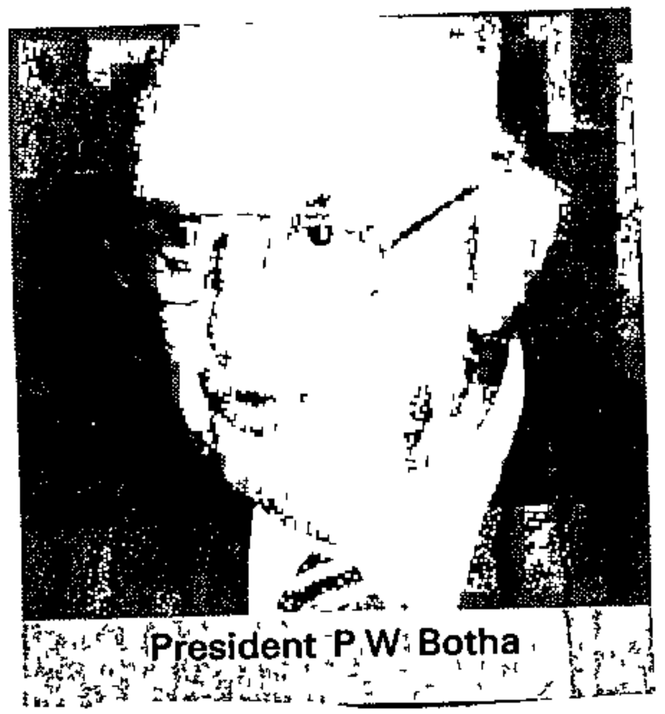
Setlaba was originally to have hanged on June 10 this year but a stay was granted on June 9 to enable the State President to be petitioned on his behalf. The petition was rejected and the new date of execution was set for today. — Sapa

Relieved mother Mrs Julia Ramashomola

Lawyer Mr Prakash Diar

CARRYING CADDIES Golfer Tony Johnson was ferried across a water hazard by two caddies on the 12th hole of the Stellenbosch course yesterday after his ball landed on an island He was playing on the first day of the Safmarine Open and missed the green with his next stroke. **Report, back page** Picture. ALAN TAYLOR

REPRIEVE



President P W Botha

Cape Times
24/11/88

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Cape Times 24/11/88.

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Lawyer Mr Prakash Diar

SOWETAN, Thursday, November 24, 1988 · Page 20

THE CASE AGAINST HANGING

'Capital punishment is brutal and outrageous'

Sowetan 24/11/88

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AGAINST

CAPITAL punishment was "brutal" and "outrageous" and its value as a deterrent had not been proven, speakers told the Western Cape chapter of the Society for the Abolition of the Death Penalty in South Africa.

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Execution did not deter killers

"It is brutal, cold and brings those responsible down to the level of brutality," she said

Miscarriages of justice could take place and innocent people had been executed.

The "small man" was more likely to be the victim of "rough justice" because of his inability to afford the best legal help

South Africa's policy has given it the dubious distinction of having the highest number of executions in the Western world

SOWETAN Correspondent

Attorney Mr Bulelani Ngcuka said the black majority of the population did not identify with the legal system, cheated by the "white oppressor" for his own benefit. The question of opposition to the death penalty had to be addressed within this context

System

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The Hippocratic Oath bound doctors to preserve life, he said

Ironically, doctors had on occasion worked hard "to keep a man alive for the hangman"

God

The Rev Andile Mbete, a Khayelitsha priest, said involvement in the death penalty amounted to being party to murder Execution was "outrageous and appalling"

People were assuming the mantle of God by executing others, he said

It had been suggested that, because of the endemic violence in the townships, blacks were violent people However, the killing would stop after "the restoration of justice in this land"

He was not calling for criminals to go unpunished "But how can you punish a corpse? How can you teach a corpse a lesson?"

A tragic history of violation

Star 24/11/87

The Human Rights Commission's first fact paper on South Africa, "Detention without trial", is presented in the light of three articles of the Universal Declaration of Human Rights. Article 3 "Everyone has the right to life, liberty and the security of person." Article 9: "No one shall be subjected to arbitrary arrest, detention or exile." And Article 10: "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charges against him" **JO-ANNE COLLINGE** reports

Since detention without trial was instituted in South Africa in 1960 an estimated 73 000 people have seen the inside of prison cells as detainees and at least 67 of these have died before their release, according to a report compiled by the Human Rights Commission

Since 1963 only three years have passed unmarked by death in detention, while 13 detainees died in the cells in 1976 and another 13 in 1977

More than 70 percent of detentions have taken place in the last five years, says the commission

The paper records the history of detention under standing security laws enacted since 1963 (when the "90-day" provision was introduced under the General Laws Amendment Act) and under special periods of emergency, the first of which was declared in the wake of the Sharpeville shootings of 1960

Emergency detainees

Of the total 73 000 detentions (which the commission states is a conservative estimate), 21 863 were security detainees held under permanent security laws, and more than 51 000 were emergency detainees held during the three emergency periods of 1960, 1985/6 and from 1986 to the present time

"It is interesting to note that in the last five years there have been more detentions under security legislation than in the previous 20 years, in spite of the heavy incidence of detention in the year following the Soweto uprising of June 1976 The figures illustrate a clear correlation between detentions and levels of political resistance"

The commission refers to the "massive total of over 73 000 detainees since 1960" as "a serious indictment of the South African Government's attempts to stifle political opposition"

It continues "These attempts appear to have been self-defeating since with the passage of time this opposition has escalated and with it the number of detentions

"Periods of major resistance and unrest have produced a rich crop of detentions as after Sharpeville (11 727 during 1960) and during and after the Soweto uprising (3 474 during 1976/7)

"But a totally new dimension has been perceived over the last four years, starting from the time of the tricameral elections in August 1984 During this period, an estimated 51 000 detentions took place, over 70 percent of all detentions since 1960

"Clearly the emphasis has shifted from the detention of simply political leadership and outspoken critics of apartheid to include community members at all levels"

The report states that there has been a continuous stream" of allegations of torture and assault in detention

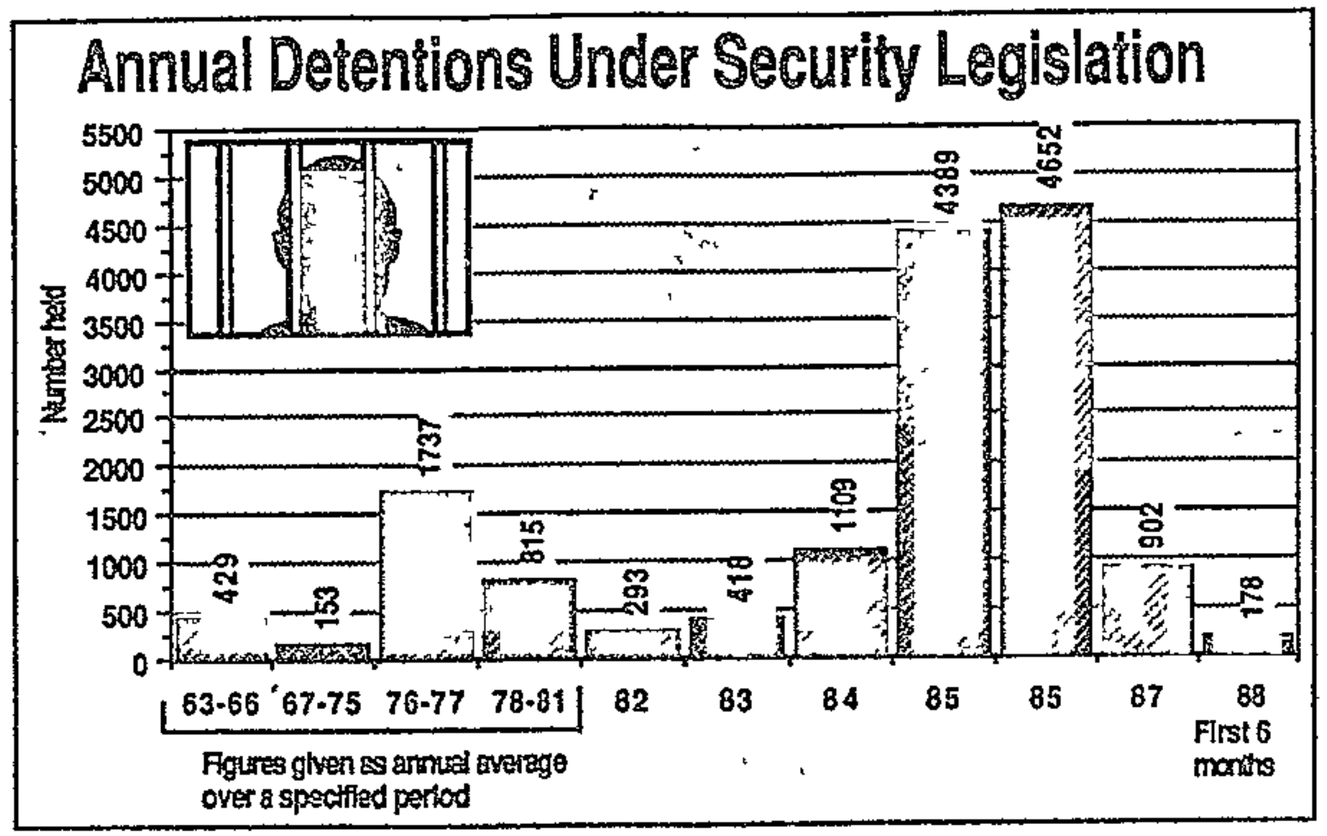
"Court proceedings abound with such allegations and these can only be considered the tip of the iceberg Several major investigations have been undertaken and their findings reported during the last six years, which detail the incidence, forms and medical and other consequences of torture"

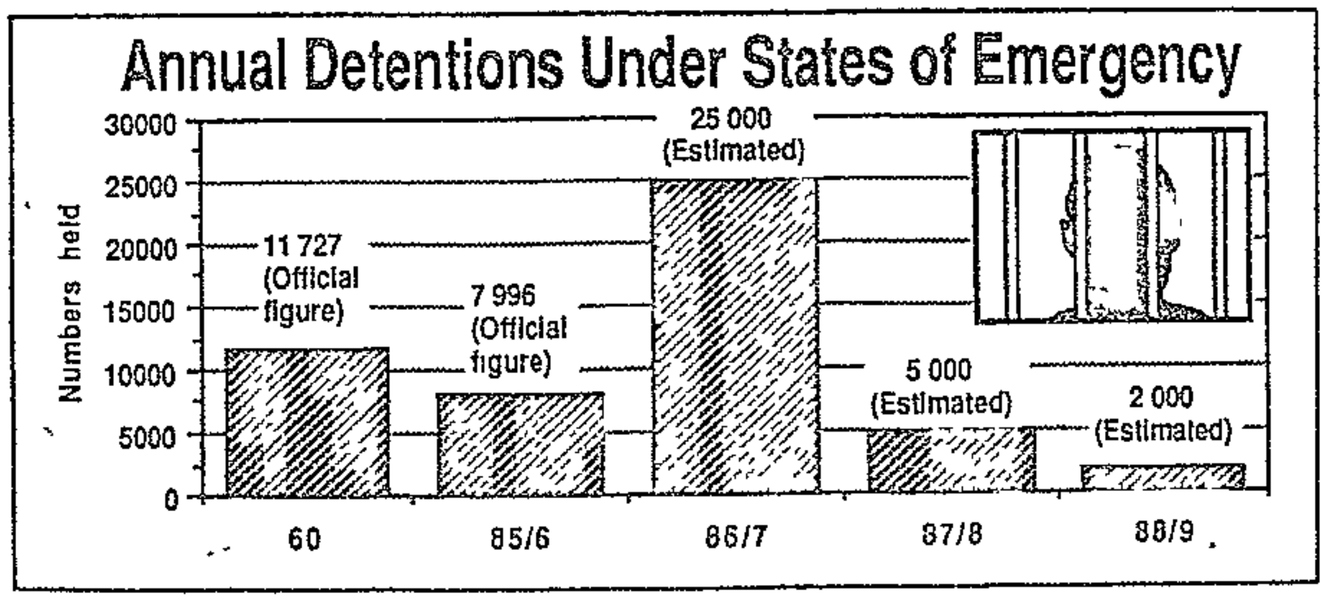
Other information outlined in the document covers

- Children in detention As early as 1977 the Government reported detaining children There were 259 detainees under the age of 18 that year — and the youngest was a mere 10 years old. Looking at the number of child detainees acknowledged by the authorities in given periods, the commission concludes that at least 20 percent of detainees have been younger than 18 years. The report adds that about 15 000 children under 18 have experienced detention

Birth in detention

- Women in detention. Their proportion of the total is in the range of 10 to 15 percent, the commission estimates "Large numbers have in this way been separated from their children, many of them only babies Others have been allowed to bring their babies into detention with them and yet others have given birth in detention"
- Outcome of detention Records since 1981 show that 75 to 80 percent of all detentions ended without any charge in a court of law Of those charged, only a small number are convicted
- Length of detention The commission observes that until recently two years was the longest recorded period of detention without trial "Now even this period is being exceeded, with many emergency detainees being held for over 28 months with no end in sight Redetention is also common, with some persons having been held as many as 10 times"
- Escapes from detention Records showed about 30 reported escapes since 1967, with only one reported re capture





Sharpeville Six reprieve

World praises PW

ARGUS 24/11/88

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'I'm ecstatic, shaking like a leaf' says jubilant wife

JOHANNESBURG — A jubilant Mrs Amanda van der Merwe, 29, said the news of her policeman husband's reprieve had "come out of the blue"

"I'm ecstatic, just shaking like a leaf Now I can tell my daughter 'Yes, he is coming home'"

Mrs van der Merwe, speaking from her Kliprivier home, said she had told her daughter Liezel, 9, that her father would be coming home, but "telling my son will be a little more difficult He is only six"

The former Brixton Murder and Robbery Squad detective has been on Death Row for nine months

"That really breaks you down," Mrs van der Merwe said "But it has served to strengthen our marriage"

RELIGIOUS

"We are both deeply religious If he had had to hang then I would have had to accept it But it is the Lord's will that he lives Now we will have a chance again"

Mrs van der Merwe, who vowed she would never give up hope or stop fighting for her husband, said she had visited him only hours before the news of his reprieve

"He was terribly depressed and said he thought he was going to hang Robert never told me, but I think he must have been helluva scared I don't know how he must be feeling now Certainly relieved

"Now at least we can plan for the future We still have our lives ahead of us Fifteen years is a long time, but I hope that he will have time off for good behaviour"

Mr Mathiam Hoffman, retired Witbank railway worker who collected 125 000 signatures for his "Save La Grange and Van der Merwe" cam-

(Turn to page 3, col 5)

PRAISE for President Botha's decision to pardon the Sharpeville Six poured in from South Africa and the world today.

In the process Mr Botha averted a major diplomatic crisis The speed of his decision, within hours of the Appeal Court refusing an application for a retrial and before a fresh appeal for clemency had been adressed to him, surprised the world

There has been intense pressure on the government for the past few months to pardon the Six and the European Community countries threatened to withdraw their ambassadors if they were not granted clemency

Spokesmen for the President's office and the Department of Justice said today no reasons were given for such a decision It was the President's prerogative

Mr Botha had maintained throughout that he could not interfere with the country's legal process and that he would deal with the matter only after it had been through the courts

In the United States President Botha received personal praise

Interest of SA

Welcoming the announcement, the State Department said that while many governments had appealed to Mr Botha for clemency, "the essential fact is that the decision was the State President's alone to make"

"By choosing to commute these death sentences he has acted in the interests of South Africa as a whole," an official said in a statement The US had long pleaded for Mr Botha's intervention

South African Ambassador Dr Piet Koornhof said in a television interview that the announcement conveyed a message of reconciliation

Former US ambassador to South Africa Mr Herman Nickel described it as an act of political sanity Sentencing them to death had, in the first place, been unjustifiable

The British government has been quick to welcome Mr Botha's decision

Defence Minister Lord Trethgowan told the House of Lords that Britain "warmly welcomes this step, which we have called for on many occasions" His words were echoed by Downing Street and the Foreign Office

The 13 spared from gallows

THOSE reprieved, with their new sentences, are:

- **Duma Joseph Khumalo, 25 years;**
- **Francis Don Mokgesi, 25 years;**
- **Reginald Sefatsa, 20 years;**
- **Mojalefa Reid Malebo Mokoena, 18 years,**
- **Oupa Moses Diniso, 18 years;**
- **Theresa Ramashamola, 18 years;**

(The six were sentenced for their part in the mob murder of a black town councillor, Jacob Dlamini, during riots in September 1984 in Sharpeville, south of Johannesburg)

- **Captain Jack la Grange, 25 years;**
- **Sergeant Robert van der Merwe, 15 years;**

(They were sentenced in March for killing two drug dealers.)

- **Constable David Patrick Goosen, 15 years;**
- **Warrant Officer Leon de Villiers, 20 years;**

(They were convicted of killing a township youth at Cradock in the Eastern Cape after severely beating him.)

- **Ajay Sookay, 20 years;**
- **Shadrack M Nyati, 20 years; and**
- **Shadrack Masuko, 20 years.**

(They were convicted of unrelated murders.)

While not the clincher, the move to save the Sharpeville Six is understood to be one of the steps Mrs Thatcher believes will help create the right "climate" for a visit by her to South Africa

Downing Street has made it clear that further reforms, including the release of Nelson Mandela, will be needed before she is prepared to visit South Africa

Labour leader Mr Neil Kinnock said he was "delighted" A Labour spokesman added that the reprieve was another "positive development" and he hoped that this would soon be followed by freedom for Mr Mandela

The secretary of the Anti-Apartheid Movement, Mr Mike Terry, said it was "a great relief to everyone But the fact that they face long prison sentences is disturbing"

The reprieve made headlines across Britain, with some commentators saying they believed Mr Botha's decision was brought about more by external pressure than by compassion

Most saw the reprieve of four white policemen as a "payoff" designed to placate the right wing

There was strong praise from The Times In a lengthy editorial the newspaper said the reprieve was "evidence not only of a new political wisdom in Pretoria, but of that even rarer quality, compassion"

The BBC said Mr Botha had "moved swiftly to turn bad news (the earlier failure of the final appeal) into good news And the right wing has been placated"

In Europe there has been widespread public approval

Government spokesmen for the Netherlands, Belgium and Western Germany approved Mr Botha's move during the late-night news broadcasts of all major radio and television stations

Radio Moscow also reported the announcement from Pretoria among their main news items, but without official government comment.

"Seventh heaven"

Archbishop Desmond Tutu said in Cape Town "We are thrilled We are in seventh heaven of delight It is wonderful, but it should have happened long ago"

His church was in favour of the abolition of the death penalty and the decision to reprieve the 13 should affect all people sentenced to death

Catholic Archbishop of Cape Town, the Most Rev Stephen Naidoo said. "We rejoice with thousands of others"

"The death penalty is applied with alarming frequency in South Africa and its overall effectiveness needs to be carefully reassessed"

The Rev Stanley Mogoba, President of the Methodist Church of Southern Africa, said the reprieve was "one of the best Christmas presents I can think of"

"My church has long stood against the death sentence as not in keeping with the values and norms of a civilised society This is a step in the right direction"

The general synod of the NG

(Turn to page 3, col 6)

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President Botha . . . decision praised around the world.

Two would 'rather hang' than serve sentences

The Argus Correspondent

JOHANNESBURG — Two of the Sharpeville Six feel so strongly about their innocence that they have said they would rather hang than serve a long sentence in jail

Their lawyer, Mr Prakesh Diar, said today he had discussed with the six on Death Row yesterday the possibility of their being granted a reprieve

"Four of them decided a reprieve would be an option they would seriously consider but two said they felt so strongly that they had been wrongly implicated that they were prepared to be executed rather than serve a jail sentence," Mr Diar said

"WILDEST DREAMS"

He did not want to name the two until he had their permission to do so

Mr Diar said he had not expected such a sudden response from Mr Botha "in his wildest dreams"

"But at the same time, I am disappointed knowing they will be spending a long time in prison"

Asked whether his clients' sentences might be reduced, Mr Diar said "If my memory serves me correctly, all people condemned for so-called political crimes and whose sentences have been commuted, have served the full time"

Mr Diar said he found it difficult to understand why his clients, who the courts have found not to be directly responsible for the murder of Mr Diamini, had to serve equal prison sentences to two former police officers, who were confessed murderers.

The 13 prisoners were informed of their reprieve by the Department of Prison Services before it was released to the media, a spokesman for the Department of Justice said today

Death Row drama: Phone calls put off execution

JOHANNESBURG. — An eleventh-hour stay of execution for Paul Setlaba, granted by the Minister of Justice, Mr Kobie Coetzee, almost failed to reach Death Row in Pretoria just hours before Setlaba was to have been executed.

Setlaba's lawyer, Mr Roshan Dehal, said from his home in Verulam near Durban today that after Mr Coetzee had communicated his decision on a stay of execution — about 12 30 this morning — he had telephoned the prison "just to make sure"

Mr Dehal said that about 1.35am he had spoken to a Sergeant de Bruin at the maximum security prison in Pretoria, where Setlaba is being held, who told him that as far as he knew the execution was going ahead as scheduled

He was to be executed about 6 30 this morning.

Mr Dehal said he had immediately contacted a number of people and organisations, including the Society for the Abolition of the Death Penalty and Lawyers for Human Rights, who were able to get in touch with Mr Coetzee.

GREAT STRENGTH

When he telephoned the prison again, about 2 05am, Sergeant de Bruin said they were now aware of the Minister's decision.

The lawyer asked Sergeant de Bruin to personally take the message to Setlaba, which he later confirmed he had done.

Recalling yesterday's meeting with his client on Death Row, Mr Dehal said Setlaba had reacted with great strength when he heard that his application for a stay of execution had been refused by Mr Justice Eloff.

Setlaba had told him not to be depressed. "He told me this was only the end of the beginning, and that life went on Then he smiled and hugged me."

Mr Dehal said that Setlaba's wife had at first been denied access to her husband, even after the application had been turned down. She had been standing outside the prison and it was only when Mr Dehal protested that a Major Cronje agreed that she should be allowed five minutes with her husband

Mr Dehal said the events of the night had left him "ecstatic but very tired".

He was hoping that "not only the sentence of death be set aside but also the conviction of murder". — Sapa.

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RELIEVED: Thumbs up for Mrs Amanda van der Merwe when she heard of the reprieve of her husband Robert, sentenced to death this year for murdering two drug dealers.

Praise for PW over Six

(Continued from page 1)

Church today expressed its happiness at the reprieves in a statement from spokesman Dr P Rossouw today

"We share in the happiness of those involved and their families There is now a further opportunity for spiritual care for those reprieved"

Progressive Federal Party leader, Dr Zac de Beer expressed relief at the reprieves and said they would help ease international tension

Civil rights campaigner and PFP MP Mrs Helen Suzman said today "I feel greatly relieved I think this will probably help stave off further sanctions"

TOLERANCE

Speaking from West Germany where she received the Moses Mendelsohn award for the advancement of tolerance last night, Mrs Suzman, who campaigned for clemency for the Six, said the news was received by German senators and other members of Parliament "with great relief"

Mr Tian van der Merwe, MP for Green Point, said that the whole question of the death penalty, particularly where politics was involved should be reconsidered

Conservative Party justice spokesman Mr Chris de Jager said he hoped all the relevant facts in granting clemency had been considered, and that the decision was not the result of political pressure

Independent Party leader, Dr Denis Worrall said "We are pleased It was obviously a major issue What South Africans don't realise is the strength of feeling against capital punishment in the West. It is a very emotional issue and the concept of taking six lives for one, so to speak, on the 'common cause' basis simply seems horrendous to many people in the West"

Advocate and National Democratic Movement justice spokesman, Mr Peter Gastrow MP said "It was a sensible decision taken at the right time It would be exciting if this was just one element of a larger forward moving initiative by the government such as the release Mr Nelson Mandela, addressing township problems and improving race relations"

In Johannesburg the chairman of Lawyers for Human Rights, Mr Brian Currin, said the reprieve was understandable in the light of the international furore and outcry.

"The problem is how were the others selected and what criteria were used What about the others (on Death Row)? This highlights the need, all the more, for a commission of inquiry into the whole question of the death penalty," he said

The reprieve is a "triumph for both international and local outrage", according to the honorary director of the Society for the Abolition of the Death Penalty, Professor Dennis Davis

It was with "enormous relief" that he heard of the reprieves

Professor Davis, a University of Cape Town legal academic, said the President Botha's decision showed "the arbitrariness of the system"

The "broader implications" of the Sharpeville Six controversy had to be addressed

"Not every case gets the same attention," he said

"These people would have been hanged if people had not kept agitating"

The legal system was at fault, he said

"The death penalty should be abolished"

Said Mrs Beverley Runciman, chairwoman of the Western Cape Region of the Black Sash "Capital punishment is a horrendous practice

"We are overjoyed at the reprieves"

Mr Dullah Omar, president of the National Association of Democratic Lawyers, also welcomed the reprieves

"We have no doubt that it is the tremendous pressure brought on the government, nationally and internationally, which is responsible for the President's decision," he said

CRUELTY

"At the same time the cruelty of the system is reflected by the fact that a number of people were hanged just a few days ago This means that the crisis in our legal and social system is as serious as ever

"The ease with which white judges impose death sentences on black accused is horrific"

The death sentence brutalised human beings and should be stopped

"We wonder whether the Sharpeville Six would have received a reprieve had there been no whites in similar positions We hope we are wrong," Mr Omar said — Political Correspondent, Staff Reporters, The Argus Correspondents, Foreign Service and Sapa-Reuter-AP

Youth held over death of girl, 6

Crime Reporter

A 16-year-old youth has been arrested in connection with the alleged murder of a six-year-old Wellington girl

Police said the youth was arrested after a group of children told police they had witnessed a killing on Razendale Farm on Tuesday

They said they had been invited to go shooting and near a dam, someone suddenly grabbed Jessica Fielies and started hitting her with a piece of wire and choking her

The person had then thrown her body into a dam

The children ran to a nearby farmhouse to report the killing, police said

Jessica's body was found later on the dam's embankment.

Three die in riots

MOSCOW — Three Soviet soldiers have been killed and more than 100 people wounded during ethnic riots in strife-torn Azerbaijan — Sapa-AP

'I'm ecstatic' — jubilant wife

(Continued from page 1)

paign, described himself as "deliriously happy" last night

In London, Miss Joyce Mokgesi, sister of Don Mokgesi, who has waged a tireless campaign abroad to mobilise public opinion against the hangings, said she was very happy with the outcome

"For the first time I have cried tears of relief"

But, she said, she felt no gratitude as the six were innocent

"The issue now is the heavy sentences My brother's life has been spared but now he will have a criminal record"

She said she had been hoping that Mr Botha's humanitarianism would have stretched to reducing, or even revoking, the sentences

In Port Elizabeth, the wives of the two reprieved policemen said the death sentence should be abolished

They said today no-one would realise what they had been through during the past few months

The first they knew of the reprieve was on the news on TV last night Both Mrs Amanda de Villiers and Mrs Ronell Goosen immediately fell to their knees and thanked God for answering their prayers

Mrs de Villiers, a dignified and reserved mother of two, said the death sentence was a dreadful penalty that played havoc with the lives of the families of the men

"It should be abolished Nobody will ever realise what it means until you have been through it," she said

Although family and friends had stood by her, the past seven months had taken their toll

Mrs Goosen said today she had never given up hope She had fallen to her knees and thanked God She did not think she would ever be able to thank the State President enough for what he had done

She said the death sentence should be done away with

"No family should be asked to go through all that, ever But we now have something to live for again It is a wonderful feeling," she said — The Argus Correspondents, Foreign Service

Relieved ... Mrs Amanda van der Merwe, wife of Death Row policeman Robert, relaxs at home after hearing of the reprieve. ● Picture by Karen Fletcher.

'I can tell my daughter: yes, daddy is coming home'

Star 24/11/88

By Dawn Barkhuizen and Therese Anders

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Relatives of the Sharpeville Six and policemen reprieved from the gallows greeted the news with emotions ranging from relief to jubilation

Mrs Amanda van der Merwe (29) said the news of her policeman husband's reprieve had come out of the blue. "I am ecstatic, just shaking like a leaf".

"Now I can tell my daughter that 'yes, daddy is coming home'."

Mrs van der Merwe — who vowed she would never give up hope or stop fighting for her husband, Robert (31), said she had visited her husband only hours before the news of his reprieve.

"He was terribly depressed and said he thought he was going to hang Robert never told me, but I think he must have been helluva scared."

"Now at least we can plan for the future We still have our lives ahead of us Fifteen years is a long time, but I hope that he will have time off for good behaviour"

The former Brixton Murder and Robbery squad detective has been on death row for nine months

"That really breaks you down," Mrs van der Merwe said "But it has served to strengthen our marriage"

Relatives of the Sharpeville Six heard last night that the prisoners would not hang

Mr Hassie Mokgesi, father of Francis Mokgesi, said "I am very happy, but they should have decided to let the boys come home."

Mrs Adeline Diniso, mother of Oupa Moses Diniso, said "I cried all day (after the court ruling). Now I feel much better."

Theresa Ramashamola's mother Julia, said "I am so happy, because my child can go to prison for 18 years, or 20 years, as long as I know my child is alive"

"Deliriously happy" was how Mr Mathiam Hoffman, the man behind the "Save La Grange and Van der Merwe" campaign described his feelings last night.

Mr Hoffman collected 125 000 signatures on a mercy petition for the two men.

He said he had campaigned for the two men's clemency because they had killed "drug pedlars".

"If they had done it to a station master or a bank clerk I wouldn't have done it"

13 condemned prisoners reprieved by State President

Star 24/11/88 (252)

Death or freedom - 2 of Six

Relieved . Mrs Amanda van der Merwe, wife of Death Row policeman Robert, relaxs at home after hearing of the reprieve ● Picture by Karen Fletcher.

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Two of the Sharpeville Six felt so strongly about their innocence that they said they would rather hang than serve a long sentence in jail, their lawyer, Mr Prakesh Diar, said today.

He disclosed this following the reprieve by the State President yesterday of 13 prisoners on death row — including the Sharpeville Six, four policemen and three others

The reprieve came at the end of a dramatic day during which the Appeal Court dismissed an application to reopen the trial of the Sharpeville Six.

The policemen reprieved are Jack la Grange and Robert van der Merwe — sentenced to death for the murder of two Johannesburg drug dealers — and Patrick Goosen and Leon de Villiers, found guilty of murders in the Eastern Cape

Three more murderers sentenced to hang, Ajay Sookay, Shadrack Nyati and Shadrack Masuku, were also reprieved

"Wrongly implicated"

Of the Sharpeville Six, Duma Joseph Khumalo and Francis Don Mokgesi will now serve 25 years' in jail, Reginald Sefatsa 20 years and Reid Malebo Mokoena, Oupa Moses Diniso and Theresa Ramashamola 18 years each

La Grange will serve 25 years, Van der Merwe 15, De Villiers 20 and Goosen 15

The three others will serve 20 years

After the Appeal Court rejected the Sharpeville Six's application for their trial to be reopened, their final resort was to petition President Botha

The Six's legal representative, Mr Diar, said "Four of them decided a reprieve would be an option they would seriously consider, but two said they felt so strongly that they had been wrongly implicated that they were prepared to be executed rather than serve a jail sentence "

He did not want to name the two until he had their permission to do so

A spokesman for the Prisons Services in Pretoria said the Sharpeville Six had been told of their reprieve by the deputy sheriff, which is the normal procedure

The Six were sentenced to death by Mr Acting Justice W J Human in the Transvaal Supreme Court in 1985 for the "common purpose" murder

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The Six were sentenced to death by Mr Acting Justice W J Human in the Transvaal Supreme Court in 1985 for the "common purpose" murder of Lekoa's deputy mayor, Mr Kuzwayo Jacob Dlamini

Mr Dlamini was killed after his house was stoned and set alight with petrol bombs on September 3 1984

An appeal to the Appeal Court in Bloemfontein failed last December, but shortly before the Six were due to be executed they were granted a stay of execution pending application for their trial to be reopened

The basis on which the reopening was sought was to cross-examine State witness Mr Joseph Manete on a privileged statement he made to an attorney to the effect that he had been told by the police to make a false statement

In June, Mr Acting Justice Human refused the application to reopen the trial or for an entry to be made on the trial record that there had been an irregularity because Mr Manete's evidence had been fraudulently obtained

Yesterday the Acting Chief Justice, Mr Justice Rabie, said in a judgment of 91 pages, that did not think it could be said that Mr Acting Justice Human erred in any way in his conclusion

Mr Justice Corbett, Mr Justice Joubert, Mr Justice Hoexter and Mr Justice van Heerden, concurred

Mr Justice Rabie said the trial judge would not have been entitled to reopen the case after he had convicted the accused

He held that the Transvaal Supreme Court had no inherent jurisdiction to reopen the trial and that the Appeal Court also had no such jurisdiction

On the application for leave to lead further evidence with a view to having a special entry made on the trial record, Mr Justice Rabie said Mr Acting Justice Human had dismissed the application on the facts — Staff Reporters and Sapa

Grim-faced ... relatives and friends of the 'Six' leave Union Buildings in Pretoria yesterday after delivering a petition calling for the abolition of the death penalty.

Reprieve 'a step forward'

Star 24/11/88

By Lloyd Coutts (252)

The presidential reprieve of the "Sharpeville Six" — and that of the four policemen on death row — has been applauded as "a step forward" by organisations calling for for the abolition of the death penalty

However, questions were raised on the criteria used in pardoning former policemen Jack la Grange, Robert van der Merwe, David Patrick Goosen and Leon de Villiers and convicted murderers Ajay Sookay, Shadrack M Nyati and Shadrack Masuko

The chairman of Lawyers for Human Rights, Mr Brian Currin, said the reprieve granted to the Sharpeville Six was understandable in the light of the international furore and outcry

"The problem is how were the others selected and what criteria were used What about the others (on death row)? This highlights the need, all the more, for a commission of inquiry into the whole question of the death penalty," he said

The attorney representing the Six, Mr Prakesh Diar, said he was relieved his clients would not hang

The Sharpeville Six reprieve was a "triumph for both international and local outrage", said the honorary director of the Society for the Abolition of the Death Penalty, Professor Dennis Davis

However, the "broader implications" of the Sharpeville Six controversy had to be addressed and the death penalty abolished

Lawyer of condemned man wouldn't give up

By Claire Robertson (252)

Paul Setlaba was convinced until 2 am yesterday that he would be hanged today.

Setlaba, 21 when he was condemned to die in December 1986 for his part in killing a woman during a consumer boycott in Colesberg, had seen the failure on Wednesday of a court application for a stay of execution to allow his case to be re-opened.

A petition to the State President for clemency had been turned down.

Numerous attempts to contact the Minister of Justice, Mr Kobie Coetsee, had been unsuccessful

On Wednesday night, Setlaba's lawyer, Durban attorney Mr Roshan Dehal, heard that 13 on death row, including the Sharpeville Six, had been granted clemency.

Convinced that Setlaba's case was very similar, he once again tried to contact the Minister

He was unsuccessful, but the scores of messages he left with ministerial aides paid off when he received a call from Justice officials at 12 30 pm.

"We have a short message for you. Setlaba has been granted a stay of execution pending a decision by the State President," he was told.

No reprieve — five hanged

Cape Times 25/11/88 259

200 prisoners believed to be on death row

FIVE men not among those who received presidential reprieves were hanged yesterday, a Supreme Court official confirmed in Pretoria last night

They were Adam Stevens, Zwelibumile Mjekula, Kholisile Diyakala, Paul Sidras and Flip Jansen

A Department of Justice spokesman said 115 people had been executed so far this year and 49 death row prisoners had been granted reprieves More than 200 prisoners are believed to be facing execution

The execution of 24-year-old Paul Setlaba, of Colesberg, who was to have been hanged at dawn yesterday, was stayed because President P W Botha had received a petition for clemency

Setlaba was sentenced to death on October 2, 1985 for his involvement in the murder of a woman during the consumer boycott at Colesberg

The Minister of Justice, Mr Kobie Coetsee, said Setlaba's execution had been postponed indefinitely to enable Mr Botha to study the petition

Setlaba's lawyer, Mr Roshan Dehal, said that after Mr Coetzee had communicated his decision on the stay of execution just after midnight yesterday, he had telephoned the prison "just to make sure"

He spoke to a prison official at the Maximum Security Prison in Pretoria, where Setlaba is being held, who said he believed the execution was going ahead

When Mr Dehal spoke to the prison again about half-an-hour later, officials said they had been told of the minister's decision

Meanwhile, the Sharpeville Six were yesterday moved to long-term jail cells after three years on death row following President Botha's decision to grant them clemency

Their lawyer, Mr Prakash Diar, said the Six still denied involvement in the murder of Sharpeville deputy mayor Mr Khuzwayo Dlamini

The group believed their reprieve was a political payoff to save the lives of the four condemned white policemen reprieved with them — and, he said, at least two had said they would rather die than serve undeserved imprisonment

"There is no doubt that this whole exercise is not to save them, but to save those white policemen," he said after meeting the Six in their new cells

"They were very surprised that they were given a reprieve without submitting a further petition since they were refused clemency on the first petition — and they cannot understand why they have now been reprieved because the facts of the case are still the same

"My clients are very relieved to know that they are not going to be executed, but they said that although the world may be happy, they are not

● The reprieve for the Sharpeville Six was yesterday welcomed by the various Western nations, Japan and the Soviet Union who had all urged clemency

● The national director of Lawyers for Human Rights, Mr Brian Currin, said that while every reprieve from the death sentence was a victory for the abolition of capital punishment cause, the arbitrariness of the selection of those reprieved yesterday was frightening

The move was clearly the result of unprecedented international pressure and "the fate of the four policemen was determined by local white, more particularly, Conservative politics", he said

"The subjectivity of this process when it involves the lives of people is totally unacceptable"

● The reprieve was a ploy by SA to hoodwink the international community, Swapo said yesterday

Swapo's chief representative to Zimbabwe, Mr Nayuala Kapuka, said he condemned the reaction of those who expressed satisfication with the reprieve

● SA's Ambassador to the US, Dr Piet Koornhof, said the decision conveyed a message of political reconciliation

Speaking in a television interview in Washington, he said SA's problems could be solved by dialogue and negotiation

● The Rev Stanley Mogoba, president of the Methodist Church of Southern Africa, described the reprieve as "one of the best Christmas presents I can think of" and said millions of South Africans would be relieved

It was "a step in the right direction, and I call on the government to look again at the death penalty, in principle"

● The general synod of the NG Church said it was happy at the reprieves and "we share in the happiness of those involved and their families"

● "Thank God, our prayers have been answered," were the first words — mingled with tears and cries of joy — of the wives of the two Port Elizabeth policemen who were granted reprieves

The two, David Goosen and Leon de Villiers, were sentenced to death in May this year for the murder of a man in 1986

Mrs Amanda de Villiers said her first reaction to hearing the news on TV last night was to kneel down and "thank God for answering our prayers"

She said she never expected to hear the good news, despite the petitions and the prayers "But it happened I still cannot believe it"

Mrs De Villiers, 36, said her sons, 16-year-old Ryno and six-year-old Carlo were just as overjoyed

Mrs Ronell Goosen said she had always believed her husband would return one day

"The time will hopefully fly past that he will be able to return to me and our children Racine, one year, and Donnell, three years" — Own Correspondents and Staff Reporters with Sapa, Reuter and UPI

REPRIEVE Mr Ruben Mokhesi, brother of Francis Mokhesi, one of the Sharpeville Six condemned to death, holds up a newspaper report announcing that the six received a last-minute reprieve by President P W Botha With him is his sister-in-law Ms Annah Mokhesi.

Picture REUTER

Prof talks of basic rights

(252)

Star 26/9/84

Accessibility of legal services is the highest priority in the administration of justice and is essential for the preservation of justice, according to Professor Laurie Ackermann, professor of human rights at the University of Stellenbosch

Professor Ackermann was quoted in the latest edition of *De Rebus*, the SA attorneys' journal, after making a speech at the recent annual meeting of the Legal Resources Trust.

"The accessibility of legal services is an indispensable element in the preservation of human dignity in an acceptable society," he said

"Accessibility of legal services is necessary for the preservation of law and order, for the protection and preservation of a society which has any worth, and for the future constitutional development of South Africa"

Profesor Ackermann said that in South African society many people were denied access to legal services by commission and by omission

By "commission" he quoted, as example, the situation in which the State decreed that a person could be arbitrarily detained without access to a legal representative

"Omission", he added, referred to society's failure to provide the means whereby indigent persons could enforce their rights

"When people see wrongs go unredressed they will ultimately conclude that society sanctions wrongs or that society places no restraint on wrongdoing," Professor Ackermann said

Star 28/11/88 (252)

PW praised for his act of clemency

Staff Reporter

The United States praised the State President, Mr P W Botha, yesterday for sparing the lives of the Sharpeville Six

Welcoming the announcement, the US State Department said that while many governments had appealed to Mr Botha for clemency, "the essential fact is that the decision was the State President's alone to make"

"By choosing to commute these death sentences he has acted in the interests of South Africa as a whole," an official said in a prepared statement

British Defence Minister Lord Trethgowan told the House of Lords yesterday that the British government "warmly welcomes this step which we have called for on many occasions"

His words were echoed by Downing Street and the Foreign Office

Labour leader Mr Neil Kinnock said he was "delighted that their lives have been saved"

A Labour spokesman added that the reprieve was another "positive development" in South Africa and he hoped that this would soon be followed by freedom for Nelson Mandela

Canada's Minister of Foreign Affairs, Mr Joe Clark, welcomed the reprieve, the Canadian Embassy in Cape Town said in a statement yesterday

Mr Clark commended the "unstinting efforts" of the defence lawyers

He said that had the executions been carried out, further unrest in South Africa could have been expected

He hoped the commutation of sentences would enhance the possibility of reconciliation in South Africa and he urged that clemency be exercised in other similar cases.

● See Page 5.

Star 25/11/88 (252)

Reprieve was 'too arbitrary'

By Esmaré van der Merwe and Sapa

While every reprieve from the death sentence was a victory in the battle against capital punishment, the arbitrariness of the selection of those reprieved on Wednesday was frightening, the national director of Lawyers for Human Rights, Mr Brian Currin, said yesterday.

Commenting on the reprieve of 13 Death Row prisoners by the State President, Mr Currin said in a statement in Pretoria that the reprieve of the "Sharpeville Six" was clearly the result of unprecedented international pressure.

"The fate of the four policemen was determined by local white, more particularly conservative, politics.

"The question we ask is why should others, who do not become political play-balls, be less fortunate?

"The subjectivity of this process when it involves the lives of people is totally unacceptable," Mr Currin said.

This was all the more reason why his organisation believed capital punishment should be urgently reviewed and that the Government should establish a commission for this purpose.

The Progressive Federal Party would renew its efforts for the abolition of capital punishment in SA following the reprieve of the Six, Mrs Helen Suzman, the party's spokesman on prisons, said from West Berlin yesterday.

● See Page 15.

State witness allegedly lied at Setlaba trial for murder

Star 25/11/88

By Claire Robertson
Pretoria Bureau

(252)

Paul Setlaba, who was given an 11th-hour stay of execution yesterday, was wrongly accused by a State witness attempting to save himself from prosecution, according to an affidavit in a Pretoria Supreme Court application this week

Setlaba, who was 21 at the time of the murder of Ms Julia Dilato during a consumer boycott in Colesberg in 1986, was sentenced to death for his part in the killing

His legal counsel will now apply to have the case re-opened following new developments concerning the evidence of State witness Mr Xolile Bonase

Mr Charles Phambili Myaba of Bhongweni Location, Colesberg, said in his affidavit this week that after Ms Dilato was burnt, he arrived to find Setlaba, Mr Bonase and Setlaba's two co-accused, Thabo Gusha and Pinkjam Kelem

"I noticed that Xolile Bonase's hands were burnt He informed me that he was holding the deceased when petrol was poured on her and some of the petrol had spilled on to his hands and that when the deceased was set alight he got burnt on his hands," Mr Myaba said in his affidavit

In his testimony Mr Bonase testified that it had been Setlaba who had held Ms Dilato while petrol was poured on her and she was set alight

Mr Myaba said he met Mr Bonase in September this year

"I confronted him with what he had told me after the incident and with what he had testified to in court

"He admitted to me that he had lied in court He told me that two policemen who were relatives of his were pressurising him to testify against (Setlaba) and the other accused "

Mr Xolile Bonase was also allegedly interviewed before the trial by a Warrant Officer Maliti of the security branch, who told him to say Setlaba had been holding the deceased

"When (Mr Bonase) refused to agree to this, Warrant Officer Maliti told him that if he did not agree to testify as he was told to, he would hang instead "

Soon after this conversation, Mr Bonase told Mr Myaba that he had been threatened by security police that if he "had anything to do with the petition for clemency he would hang in the place of Setlaba"

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Cape Times 25/11/88

City man saved in court drama

By SYBRAND MOSTERT

ISAAC TSHONGOYI was almost hanged by mistake yesterday

The 21-year-old Nyanga man was saved in a last-minute courtroom drama

A Pretoria judge granted a stay of execution late on Wednesday — only hours before Tshongoyi was due to hang along with six others — after it was found court officials in Cape Town had lost the papers

Tshongoyi's lawyer, Mr Dawood Adam, only discovered his client was due to be hanged when the condemned man's mother telephoned to say that she had been given two train tickets to Pretoria to see her son before the execution. He then leapt into action to save his client

He found out that a petition for leave to appeal against the death sentence had never reached the Appellate Division in Bloemfontein — so the execution date had been set

His firm urgently contacted counsel and lawyers in Pretoria, who succeeded late on Wednesday afternoon in the application for a stay of execution

Leave to appeal had been refused after Tshongoyi was found guilty of murder in June, so a petition to the Chief Justice to apply for leave to appeal had been registered with the Supreme Court in Cape Town It was this petition that had been misfiled.

Now it remains to be seen if the petition will succeed

● 200 still on death row — Page 3

'MANDELA TO BE GIVEN BACK'

Sowetan 25/11/88

(252)

WASHINGTON — Imprisoned African National Congress leader Nelson Mandela was in the process of being given back to society, the South African Ambassador to the US, Dr Piet Koornhof, said here.

"He is no longer in prison," he said in his first major television appearance on Wednesday "He is no longer in hospital either He is in a clinic, a very good clinic which I happen to know well "

Speaking to his largest American audience since his arrival here almost 19 months ago, he said he did foresee a decision to free Mandela — "Yes, I hope that it will be coming I sincerely hope it will be coming," he said on *Cable News Network*

He refused to speculate on a date, merely expressing the hope that Mandela would be released "sooner than later "

Clemency

Dr Koornhof was being interviewed on the Government's clemency involving the Sharpeville Six Stressing the need for negotiation and conciliation between South Africans, he was asked if South Africa was emulating US President-elect George Bush's ambition for a "kinder, gentler" nation

"I think so, yes," he said "I would go along with that "

SOWETAN FOREIGN SERVICE

DR PIET KOORNHOF

On how South Africa would get on with a Bush administration starting in January, Dr Koornhof said the Republic had "to do its own thing And we must find solutions to our problem inside of South Africa To the extent that we do that, we will not only get on with the Bush administration, but with America generally and with the world at large "

Earlier Dr Koornhof visited the State department to deliver the strongest possible protest to the US at a strong-worded condemnation by the US on Monday of the verdict of the so-called Delmas treason trial The US also charged the Government with manipulating the judicial process to crush its opponents

He met the US Assistant Secretary of State for African Affairs, Dr Chester Crocker

Legal murder or just retribution?

Star 25/11/88 (252) (30)

By ESMARE VAN DER MERWE, Political Reporter

The reprieve of 13 condemned prisoners has intensified pressure for the abolition of the death penalty. Mrs Helen Suzman of the PFP claims that capital punishment is "abominable" — but the Government insists that it is justified.

The reprieve of the Sharpeville Six, among 13 Death Row prisoners who were granted clemency by the State President, has intensified pressures from a wide range of organisations for the abolition of the death sentence in South Africa.

But the Government remains adamant that the death penalty is justified

The Minister of Justice, Mr Kobie Coetsee, reiterated the Government's viewpoint in Parliament earlier this year

"I am not defending the death penalty but the fact remains that there are only 25 countries in the entire world which have abolished it completely."

(Interjection from Mrs Helen Suzman "Only!")

"Nothing has happened to indicate that the death penalty should no longer be included in the system of penalties available to the judiciary of South Africa

"To argue that it has not assisted us in curbing and curtailing crime, is wrong.

Mr Coetsee turned down a PFP request for a commission of inquiry into capital punishment

Elaborating on the State President's authority to exercise clemency, he said "What may well be done is to refine and perhaps formalise the process of recording, or actually the confidential private advice which a judge gives the executive power With a view to this, we shall negotiate with the judiciary to ensure that we receive absolutely precise advice from them on whether there may be clemency when no extenuating circumstances have been found"

If the death penalty were to be abolished, it would have an effect on the entire penal system.

Mr Coetsee concluded "I am convinced that honourable members will understand me when I say that this penalty requires the least possible limelight It is a sensitive matter to all It is a delicate matter and should be applied in the most civilised form"

Mrs Suzman, the PFP's spokesman on prisons, said "South Africa has a terrifying record of hangings The death penalty is nothing but abominable and has been abolished in almost all countries," she said

"As the only PFP MP in Parliament in the 60s, I asked for a commission of inquiry into the death penalty I was then the only MP in Parliament opposed to capital punishment In the 70s, the PFP again requested an inquiry It was turned down by the Government

"I will certainly continue my efforts I will not rest before this horrifying sentence is abolished"

Heidelberg a year ago

conducted

Even if found, there is no guaran-

boxes, he replied "Your guess is as good as mine"

One of life's big challengers is the Church

Star 25/11/88

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Mainstream churches in South Africa are divided in their views on capital punishment. CARINA LE GRANGE, The Star's Religion Reporter, asked church leaders to state their views on the issue.

Two Afrikaans churches officially condone the death sentence, two English-speaking churches are strongly opposed and the Catholic Church sees an emerging movement against capital punishment

"The Ned Geref Kerk (NGK) has always accepted the death penalty — and I think on good grounds Biblically there are adequate reasons to accept the death penalty But this does not mean it must be used too often — and there are reasons to believe that it is used too easily in South Africa I say this despite the fact that we accept the principle," said the moderator of the NGK, Professor Johan Heyns

The moderator of the Nederduitsch Hervormde Kerk (NHK), Professor Bart Oberholzer, said he was personally in favour of the death penalty.

"The NHK has never spoken out against the death penalty. It accepts that the State must do its duty and that it needs the death penalty to do this The death penalty gives expression to society's concern over human life The Bible clearly states that human life falls under the special care of God and that a State which does not have capital punishment does not protect the lives of its citizens, and shows that it does not value human life in general Therefore I believe in the death penalty," said Professor Oberholzer

President of the Methodist Church, the Rev Stanley Mogoba, said the Methodist Church was strongly opposed to capital punishment and this year had called for a review of the death penalty It had appealed to all independent countries in southern Africa which upheld the death penalty for certain offences to set up full representative commissions of inquiry to examine all aspects of capital punishment

The Rev Canon Winston Ndungane of the Anglican Church said his church was vehemently opposed to the death penalty and called on the Government to abolish capital punishment.

"The church affirms that all human life is of infinite value and that only God gives life and that humankind must not take it It believes that whatever the strength of arguments in favour of capital punishment, the deliberate, planned killing of any human being debases those who carry out the execution, those who must witness it and all those who are members of societies which authorise it," he said

Father Emil Blaser, Bishop Vicar for Justice and Peace in the Catholic Diocese in Johannesburg said "Traditionally there are at least two arguments in favour of the death penalty One, the argument that crime should not go unpunished and two, that the State has a right to prevent criminals from perpetrating crime against humanity

"However, there is widespread abhorrence to its practice today and this can be seen as a sign of the times There is a growth in moral awareness in the Catholic Church which is all part of the development, in theory, of the sacredness of human life from the womb to the tomb

"For centuries there has been a growing awareness that the death penalty is neither useful nor necessary

"The State does have the right to defend citizens from criminals and serious crimes, but the church increasingly challenges the use of that right to justify capital punishment"

Dispute throws harsh light on the scaffold

Star 25/11/88 (252)

By PATRICK LAURENCE

The widespread calls for clemency for the Sharpeville Six and for two policemen remind us that hanging, like most issues in South Africa, has been a politicised matter that raises passions among all sectors of the country's poplulation

The sudden reprieve granted to the Sharpeville Six by President Botha signifies a new and irreversible fact in South African society hanging, once a peripheral issue, has moved to the centre of the stage

Originally sentenced to death for the murder of a black councillor, Mr Khuzwayo Dlamini, during an upsurge of violence in the Vaal Triangle in September 1984, the Six — five men and a woman — became the target of an unprecedented international campaign for clemency

The campaign was fuelled by a controversial judgment in which all six were found guilty of murdering Mr Dlamini though none was proved to have contributed directly to his death They were convicted because — in the words of the Appeal Court — "they shared a common purpose to kill the deceased with the mob as a whole"

Anguished cry

But, even if the conviction had not rested on the doctrine of common purpose, their plight on death row would almost certainly still have provoked widespread pleas for clemency

The anguished cry for mercy, from inside South Africa as well from beyond its borders, was not an isolated development It was part of a growing campaign against hanging in South Africa.

The explanation for the campaign is simple Hanging, like most issues in South Africa, has been politicised. The intensification of South Africa's conflict has brought an increasing number of politically motivated people into the shadow of, and sometimes on to, the gallows

The start of the campaign can be traced back to the execution in April 1979 of Solomon Mahlangu, the first African National Congress insurgent to be hanged after the ANC's guerilla war was reactivated by the township revolt of 1976-77.

Since then another seven ANC men have been hanged Each execution was preceded by calls for clemency, which added impetus to the growing campaign to save political offenders from the noose

At least three ANC guerillas are on death row at present Robert McBride, who was convicted on three counts of murder for his role in a bomb explosion in Durban, and Mthethelei Mncube and Msondeleli Nondula, who were sentenced to death for their roles in a series of landmine blasts near SA's border with Zimbabwe

On Monday, two ANC men, Ebrahim Ismail Ebrahim and Acton Maseko, were convicted on treason for their role in a landmine campaign in 1986 near the Swaziland border

Last week four leaders of South Africa's extra-parliamentary opposition, Patrick Lekota, Popo Molefe, Moss Chikane and Tom Manthatha, were found guilty of treason

Sentence still has to be passed. But, as treason is a capital offence, the possibility of one or more of the six men joining other ANC prisoners on death row cannot be ruled out

The number of political prisoners — or people who are perceived to be political offenders — on death row was swollen by the renewed rebellion in the black townships between 1984 to 1986

People convicted for participation in the murder of "collaborators" — township councillors, suspected informers and policemen — joined ANC guerillas on death row. The Sharpeville Six were among them

Justice Minister Mr Kobie Coetsee told Parliament that 101 people were sentenced to death for "unrest-related offences", including the gruesome necklace method of murder, from 1984 to September 1988 Of these, 17 had been hanged, 83 were still awaiting execution and one had been reprieved

The Johannesburg-based Human Rights Commission says it knows the names of 67 political prisoners on death row at present That represents nearly one-quarter of the 273 people on death row

It is not coincidental that one of the first campaigns undertaken by the SA Youth Congress after it was formed in March last year was to save "patriots" from the gallows

The way in which the death penalty has become entangled with the political conflict is illustrated graphically in the case of four policemen who were reprieved by President Botha with the Sharpeville Six

Two of the policemen, Jack la Grange and Robert van der Merwe, were sentenced to death for murdering two alleged drug dealers and attempting to murder a third It seemed to be a straightforward criminal case, but a political factor existed even in their case

Van der Merwe claimed during the trial that he thought he was involved in a secret police operation to eliminate an ANC-controlled drug ring "I did not hestitate to assassinate the ANC man because I knew it had happened before," he said

The second pair of policemen reprieved by President Botha were Leon de Villiers and David Goosen, former members of a police riot unit They were found guilty of murdering Mlungisi Stuurman (18) after going to Cradock to keep order during a political funeral

The execution of political offenders is likely to assume an even higher profile in future

As Professor John Dugard, of the Centre for Applied Legal Studies, points out, captured ANC guerillas are increasingly claiming the status of soldiers entitled to prisoner-of-war status under the 1977 addendum to the Geneva Conventions

Foreign gallows

If they are sentenced to death and executed for the death of innocent civilians, then South African soldiers captured during cross-border raids into neighbouring states can expect similar treatment when their actions result in the death of civilians

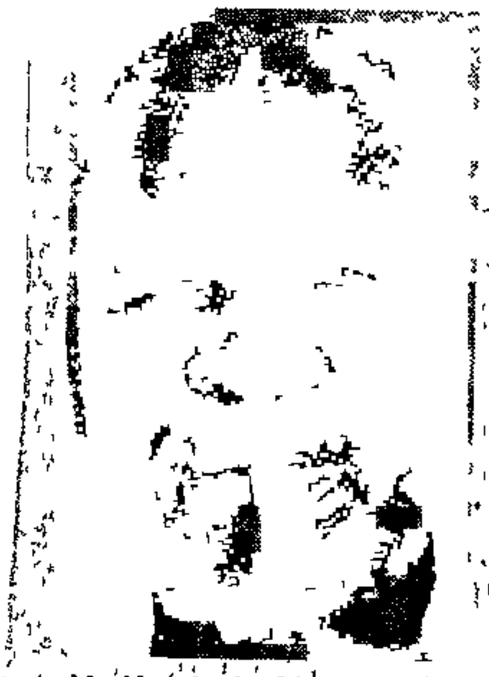
"Reciprocity is an important consideration in international life," Professor Dugard writes in the lastest issue of the *SA Journal of Human Rights* He then asks whether South African soldiers will have to hang from foreign gallows before the lesson is learnt

The Sharpeville Six lawyer, Mr Prakash Diar, suspects that his clients were reprieved as part of a "trade-off" for the clemency granted to the four policemen If so, perhaps South Africa's rulers are starting to learn the lesson of reciprocity

Reprieve from hanging welcomed, but . . .

Families 'concerned' over Sharpeville Six sentences

252 117



Mr Hassie Mokhesi . . . no arguing with the State President.

Mrs Leah Mokoena (65) . . still firmly believes her son, Reid, is innocent.

By Jovial Rantao

Most family members and relatives of the reprieved Sharpeville Six welcomed yesterday the decision by the State President to spare their lives, but expressed concern at the long prison terms.

The Six — Duma Joseph Khumalo, Don Francis Mokhesi, Reginald Sefatsa, Reid Malebo Mokoena, Oupa Moses Diniso and Theresa Ramashemola — were reprieved together with nine other prisoners on death row, hours after the Appeal Court had dismissed an application to re-open their trial

YOUNGEST

Mrs Leah Mokoena, the mother of the youngest of the six, Reid Mokoena, wept as she related to The Star the traumatic moments her family had to go through since the conviction of her son

"I wish I could die or go to prison in his place He is so young and deserves to be in a better place than jail," she said

Mrs Mokoena said since the death of her husband seven years ago Reid had been a father to his younger brother and sister

"He left school before completing his matric to go and seek work"

At the time of his arrest, Reid's son was three years old and he was planning to marry his childhood sweetheart, Dorothy

INNOCENT

Reid's brother, Mr Louis Mokoena (22), said "Though I welcome the reprieve, I still believe my brother is innocent"

Seventy-five-year-old Mr Hassie Mokhesi, father of Don Francis Mokhesi, summed up the events of the past 4½ years by saying "Life is no more what it used to be"

Mr Mokhesi said the families had done everything possible to secure the freedom of their children, but the State President had taken a decision in his capacity as leader of the country

"When my son was detained he left behind his then six-year-old daughter and his wife, Mmanodise," Mr Mokhesi said

Mr Mokhesi said his daughter, Joyce, and Mmanodise were in England campaigning for the freedom of the Six

Mrs Julia Ramashemola, who had just returned from visiting her daughter, Theresa, a few hours after she was reprieved, said although her daughter welcomed the State President's decision to spare their lives, she was deeply concerned about the long prison term ahead of her

Mrs Ramashemola (52) said she hoped to see her daughter again in the near future

The Diniso family could not have asked for a better day to celebrate both the birthdays of the head of the family, Oupa Moses Diniso, and his daughter, Lindiwe

His mother, Mrs R Diniso, said after visiting Oupa at the Central Prison in Pretoria yesterday he was determined to survive the 18 years ahead of him and to be re-united with his family.

"I thank God for having spared their lives," Mrs Diniso said

Thumbs down for reprieve

Sowetan 25/11/88

(252)

By JOSHUA RABOROKO

NEIGHBOURS and families of the "Sharpeville Six" yesterday gave the State President, Mr P W Botha's dramatic reprieve a thumbs down

However, they welcomed with relief the fact that they will not hang

The residents and families interviewed by the *Sowetan* said they wanted the "Six" back and felt that they should not have been charged in the first place

They also felt that Mr Botha should not have treated them as "cold-blooded" murderers by giving them reprieve together with killer-policemen, Jack la Grange and Robert van der Merwe

They were basing their argument on the fact that the six were convicted on "common purpose" whereas the policemen were sentenced for actual murder

Mrs Leah Mokoena, the mother of Malebo Reid Mokoena, broke down as she told how the commutation of the sentence — 18 years imprisonment — for her son meant a renewed suffering

She said: "Imprisonment is like death itself. Everyday I dream of Malebo coming back from work Our fear for whites is painful

"My husband died years ago and left me in this pain Why, God, why?"

Mr Bassie Mokhesi, the 75-year-old father of Francis, said "We must thank the mercy of the 'baas' instead of God God no longer runs the world, but man does."

He said he would start eating again after four years of his wish to die because his son was now going to live, albeit, 25 years in jail

A resident, Mr Doc Mabunda said· "Do you expect me to be happy? Those people are not supposed to have been charged in the first place

Mr Michael Moforotsi (19), said the reprieve was based on apartheid reaction He said Mr Botha, in giving the six a reprieve as well as the policemen, was trying to appease the whites.

If he wanted to reprieve the six, then he should have done so and not equate them with the policemen.

Mr Elliot Tladi said "At least justice prevailed where injustice rules supreme We welcome the decision, unlike the death penalty."

At a Press conference in Sebokeng yesterday, the Lekoa mayor Mr Samuel Kolisang congratulated the State President He said it was a great relief.

DEATH ROW DRAMA

Stay of execution message almost failed to reach prison

(252) Sowetan 25/11/88

SAPA

AN eleventh-hour stay of execution for Paul Setlaba, granted by the Minister of Justice, Mr Kobie Coetsee, almost failed to reach death row in Pretoria, just hours before Setlaba was to have been executed.

Setlaba's lawyer, Mr Roshan Dehal, told Sapa by telephone from his home in Verulam near Durban that after Mr Coetsee had communicated his decision on a stay of execution — at about 12.30 yesterday morning — he had telephoned the prison "just to make sure."

Mr Dehal said at about 1 35am he had spoken to a Sgt de Bruin at the maximum security prison in Pretoria, where Setlaba is being held, who said as far as he knew the execution was going ahead as scheduled

He was to be executed at about 6 30 yesterday morning Mr Dehal said he had immediately contacted a number of people and organisations, including the Society for the Abolition of the Death Penalty and lawyers for human rights, who had obviously managed to contact Mr Coetsee.

When he spoke to the prison again, at about 2 30am, Sgt de Bruin said they were now aware of the Minister's decision.

The lawyer requested Sgt de Bruin to personally take the message to Setlaba, which he later confirmed he did

Cure for Bara's ills

Sowetan 25/11/88

THE solution to overcrowding at Baragwanath Hospital was to erect prefabricated

Reprieve for condemned Sharpeville Six

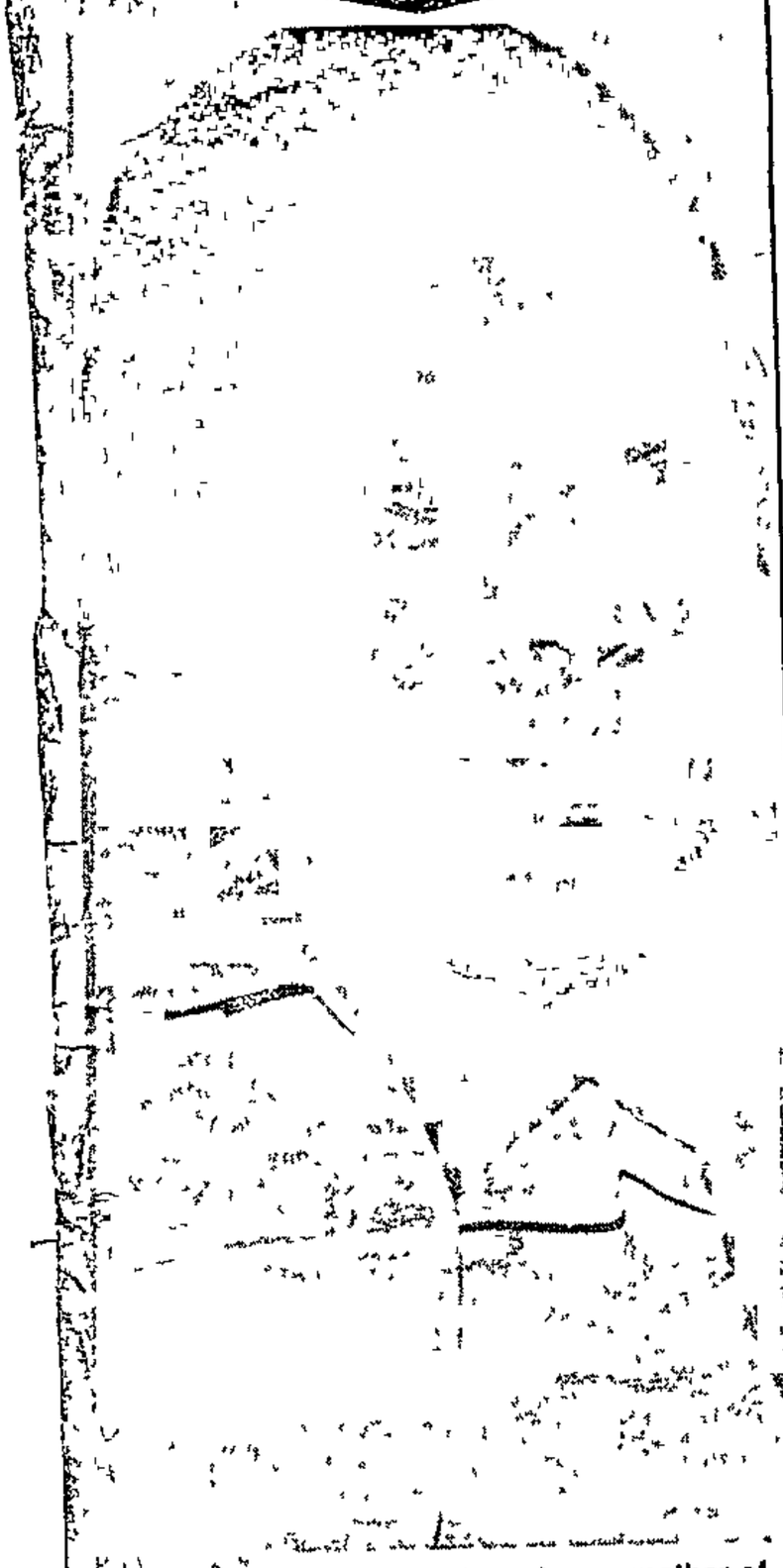
DECISION IS PRAISED

(252)

Sowetan 25/11/86

PRESIDENT BOTHA

'I'm happy my child is alive'



Mrs MOIPONE Ramashamola . . mother of Theresa.

By MOKGADI PELA and Sapa

THERE has been widespread approval both local and international to the State President's commutation of the death sentences on the Sharpeville Six.

The reprieve by Mr P W Botha came shortly after the Appellate Division in Bloemfontein rejected an application for the reopening of their trial.

Leading those who expressed pleasure was the Secretary-General of the United Nations, Javier Perez de Cuellar, who said he was relieved at Mr P W Botha s decision

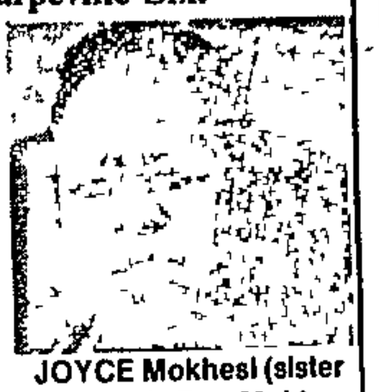
Perez de Cuellar and several United Nations bodies had urged clemency on behalf of the six, whose sentences have been commuted to jail terms of between 18 and 25 years

Welcome

In London, a spokesman for Britain's Foreign Office praised Mr Botha's decision to commute the sentences saying "this is news we welcome very much "

The Steve Biko Foundation added its voice saying "We welcome the reprieve but we maintain that they should not have been convicted in the first place Our position is that capital punishment does not belong to this side of civilisation "

The South African Black Municipal Workers' Union expressed



JOYCE Mokhesi (sister of Francis Don Mokhesi) . went to plead in London

pleasure at the decision of the State President but asked him to release people who were arrested in their efforts to save the Sharpeville Six

The Canadian Secretary of State for External Affairs, Mr Joe Clark, also welcomed the news saying that had the executions been carried out further unrest could have been expected but hoped that this commutation would help enhance the prospects for reconciliation

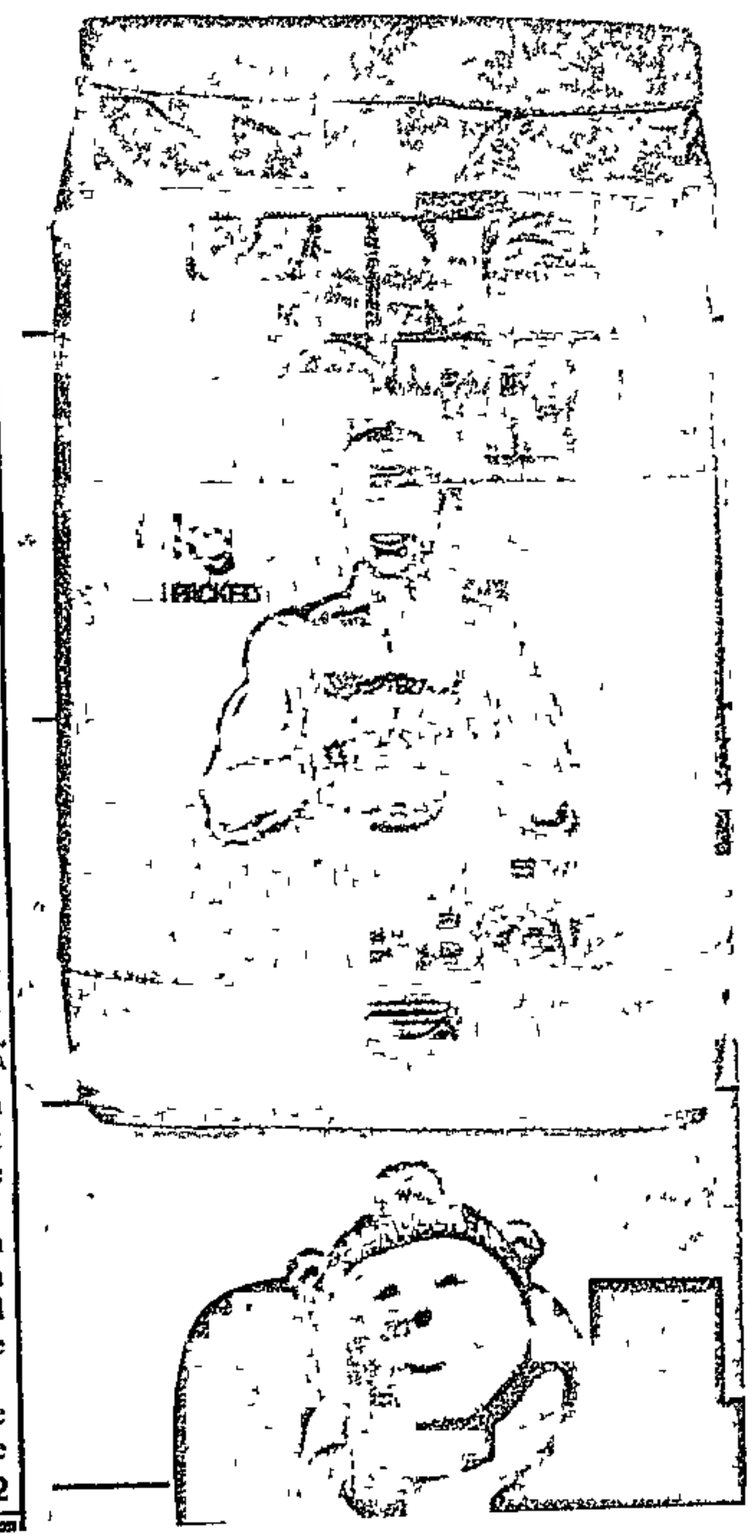
The Catholic Archbishop of Cape Town, the Most Reverend Stephen Naidoo, said "We rejoice with thousands of others that the Six will not be hanged "

"What a relief to learn that they have been retrieved," remarked Bishop H B Senatle of the AME Church.

The families of the Shapeville Six were

• To page 2

CHEAP PR



P.T.O

Sowetan 25/11/88

Praise for move on the six

• From page 1

beyond themselves with joy. Mr Hassie Mokhesi, father of Francis Mokhesi, said: "I'm very happy but they should have decided to let them free."

Mrs Adeline Dimiso, mother of Oupa Moses Dimiso, said. "I cried all day (after the court ruling), now I feel much better."

Theresa Ramashamola's mother, Julia, said. "I am so happy because my child can go to prison for 18 years or 20 years, as long as I know my child is alive."

In Europe, the news received a round of approval from the Netherlands, Belgium and West Germany.

They Black Sash called on Mr Botha to declare a moratorium on the death penalty.

Mr Dullah Omar, president of the National Association of Democratic Lawyers, said: "We have no doubt that it is the tremendous pressure on the Government which is responsible for the President's decision."

South Africa's Ambassador to the United States, Dr Piet Koornhof, said Mr Botha's decision conveyed a message of reconciliation.

The leader of the Methodist Church of Southern Africa, the Reverend Stanley Mogoba, described the commutation of the sentence as "one of the best Christmas presents I can think of."

Other members of the Sharpeville Six include Reginald Sefatsa, Reid Malebo Mokoena and Duma Joseph Khumalo.

Cape Times 25/11/88

'More legal aid' call to restore faith in SA law

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Supreme Court Reporter

IF more legal aid was granted, a "giant step forward" would be taken towards restoring confidence in the South African legal system and eliminating suspicion about it, the SA Bar Council has said.

In an editorial in the SA Bar journal, Consultus, the Bar Council said it welcomed an announcement by the Minister of Justice that the state's financial grant to the Legal Aid Board was to be increased and that the private sector would be approached for funds too.

Consultus said, however, that the composition of the Legal Aid Board and the way in which its members were appointed, as well as other provisions of the Legal Aid Act, had had the effect that the Legal Aid scheme was regarded as a "state" scheme.

The journal suggested that the Legal Aid Act be adapted in such a manner that the private sector would be more inclined to contribute to the Legal Aid Fund.

Moi thanks P W for sparing 'Six'

Cape Times 26/11/88

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By BARRY STREEK
Political Staff

KENYA'S President Daniel Arap Moi yesterday thanked President P W Botha for sparing the lives of the Sharpeville Six — and disclosed that they had exchanged letters on the subject

President Moi told a passing-out parade of the paramilitary General Service Unit in Nairobi "I am happy that President Pieter Botha responded positively to my plea for the Sharpeville Six

"I wrote him a letter to which he responded 'I have taken note of your concern' "

President Moi did not give any further details about their correspondence nor did he say whether the two presidents had communicated with each other on other occasions.

In Pretoria a spokesman for Mr Botha refused to make any comment on Mr Moi's statement

However, Kenya has for a number of years been strongly anti-apartheid and during the controversy after its former attorney-general, Mr Charles Njonjo — who had a number of friends in South Africa including former PFP leader Mr Colin Eglin — was removed from office, it tightened up controls to limit contact with South Africa

Mr Moi's disclosure that he and Mr Botha had exchanged letters could indicate an easing of relations between the two countries

Last month the Deputy Minister of Foreign Affairs, Mr Kobus Meiring, said at the Cape Congress of the National Party that South Africa had trading links with all countries but one in Africa — and, it is reliably understood, Kenya is not the sole exception.

● Our Correspondent reports from London that British Foreign Secretary Sir Geoffrey Howe has warmly welcomed the Geneva Agreement on Namibia and the reprieve for the Sharpeville Six

Opening a debate on Foreign Affairs in the House of Commons, he said. "We had repeatedly urged the South African authorities to reprieve them Now they have and we welcome it They know too we are helping black South Africans within South Africa."

Hangings: Call for more reprieves

Political Staff

IT is now more urgent than ever that the government suspend all executions, the executive director of the SA Institute of Race Relations, Mr John Kane-Berman, said yesterday.

"It is difficult to avoid the impression that political factors played a role in the 13 reprieves announced earlier this week," he said in a statement

"Does this not mean that a terrible injustice is done to countless numbers of other people who are sentenced to death but have no one to take up cudgels for them, such as threatening economic sanctions if their sentences are not commuted?

"The contrast between the reprieves and the almost routine carrying out of hangings of other people at the same time could not be more striking"

Mr Kane-Berman stressed that he was not criticising President P W Botha for exercising his prerogative of mercy The issue was one of fairness, he said.

"It looks as if mercy is extended to some but not to others."

The institute's council has urged the government to declare an immediate moratorium on executions and to establish a commission of enquiry into the whole issue of capital punishment

bloody saga

Reprieve of the Sharpeville Six brings an end to a

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PATRICK LAURENCE

THE reprieve of the Sharpeville Six from the death sentence by President P W Botha brought an end to a bloody saga which started on September 3 1984 when four town councillors and a councillor's aide were murdered by marauding mobs in the Vaal Triangle

The trial of the Six for the murder of Mr Khuzawayo Dlamini aroused international interest and indignation, mainly because they were convicted on the doctrine of common purpose But it was only one of four murder trials arising from the killings on that fateful day

Apart from the Sharpeville Six, another 10 people were charged with the murder of Councillor Caesar Motjeane and his aide, Mr Phineas Matibidi, six more with the murder of Councillor Philemon Diphoko and yet another six with the murder of Councillor Jacob Chikane

In the three lesser known cases the accused were acquitted of murder Hence the speed with which they disappeared from public memory

But, said Mr Prakash Diar, the instructing attorney for the Six, in two of these cases the State pressed murder charges under the common cause doctrine

As in the trial of the Six, those accused of killing Mr Diphoko and Mr Chikane were held by the prosecution to have associated themselves with the actions of the mobs However, the State could not make its charges stick

Mr Diar served as an instructing attorney for the accused in all three cases He told Saturday Star that, in his view, they were essentially similar

In the remaining trial — arising from the murder of Councillor Motjeane and his aide — the judge found the State had not proved guilt beyond reasonable doubt

The death of the four councillors and Mr Matibidi was material to a fifth court case, the treason trial against three leaders of the UDF — Patrick Lekota, Popo Molefe and Moss Chikane — and their 19 co-accused

They were charged with indirectly causing the Vaal Triangle murders, in that they "organised, mobilised, incited, indoctrinated, intimidated, instigated, conditioned and/or induced" the masses to "take part in and resort to riots, acts and/or activities of violence and/or killing"

Eleven of the 22 were acquitted, four were found guilty of treason and seven of terrorism

Weekend FOCUS 3

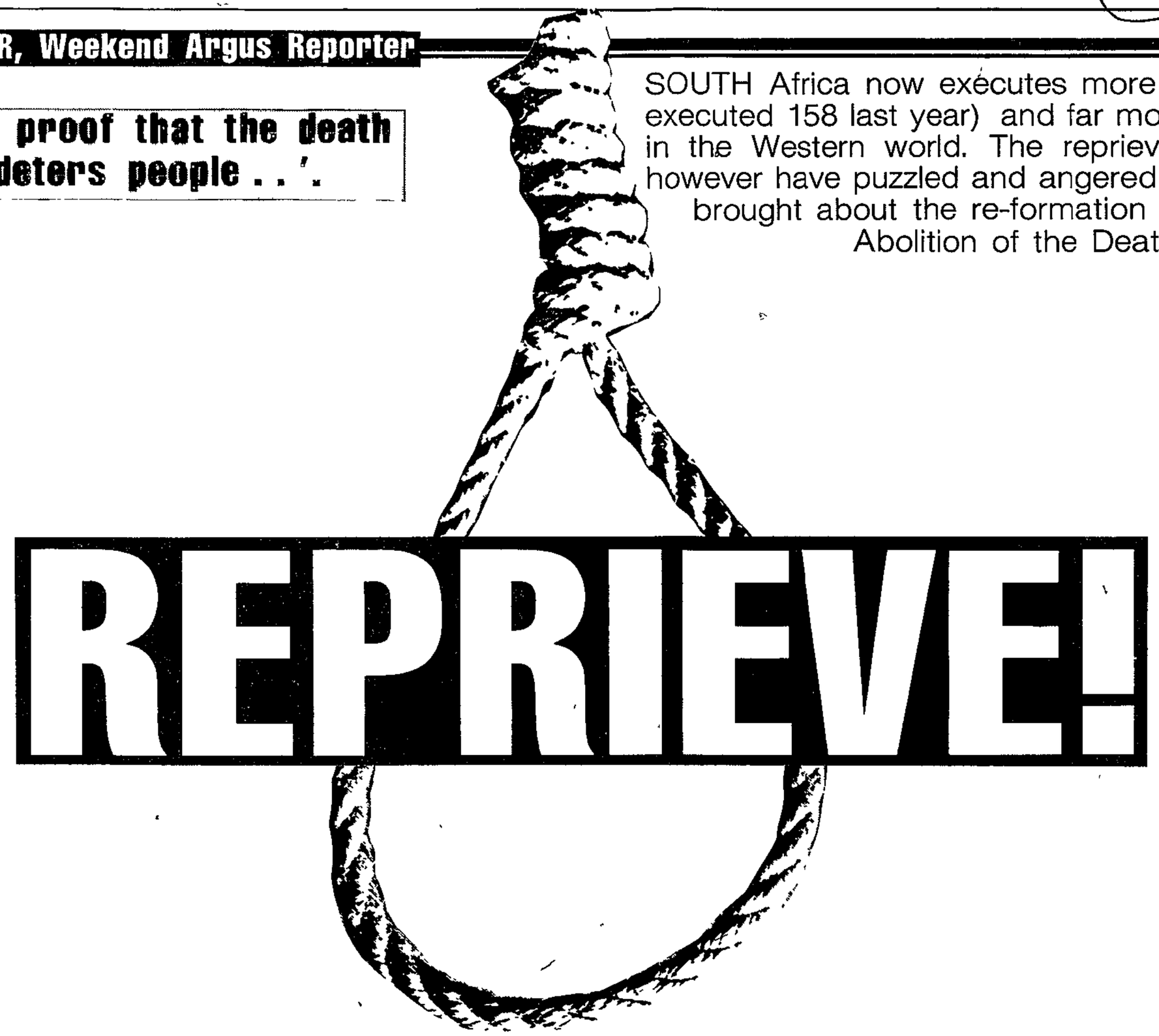
by VIVIEN HORLER, Weekend Argus Reporter

'There is no proof that the death penalty deters people . . '.

Weekend Argus SPECIAL REPORT

SOUTH Africa now executes more people than Iran (which executed 158 last year) and far more than any other country in the Western world. The reprieves announced this week however have puzzled and angered some people . . and have brought about the re-formation of the Society for the Abolition of the Death Penlaty.

REPRIEVE!



THE reprieves from the gallows announced by President Botha this week in favour of 13 people convicted of murder, have been widely welcomed in South Africa and abroad.

But the President's decision has also left some observers puzzled and even angry

This is because while the Sharpeville Six were originally convicted and sentenced according to the doctrine of "common purpose", the four policemen who will no longer hang were found guilty of cold-blooded murder with no mitigating factors

Professor Dennis Davis, national director of the newly reconstituted Society for the Abolition of the Death Penalty, says the system is "arbitrary, capricious, and open to political persuasion The decision only confirms my belief that the death penalty should be scrapped"

Prof Davis welcomed the reprieves but added "They illustrate the arbitrary nature of the system As these 13 are reprieved, Paul Setlaba waits on death row"

Setlaba was convicted, also according to the doctrine of common purpose, for his part in the killing of a woman during the consumer boycott in Colesberg. He was due to be hanged this week, but was granted a stay of execution by Justice Minister Kobie Coetsee just six hours before he was to have been executed

Prof Davis asked why Setlaba should remain on death row while former policemen Jack La Grange and Robert van der Merwe, who killed two Johannesburg drug dealers, and David Patrick Goosen and Leon de Villiers, who shot dead a Cradock youth after severely beating him, have had their lives spared

"These men are cold-blooded cynical murderers, and there is no question of common purpose in what they did How can one justify their reprieve while Setlaba remains on death row?

"The system is horrendously immoral"

THIS week the society was reconstituted at a meeting in Cape Town after becoming defunct in the mid-Seventies

"It is only the issue of the Sharpeville Six that has focused attention on the problem," Professor Davis said in an interview

"There has been a quite stunning increase in the number of executions The statistics are horrendous

"In 1986, 121 people were hanged, last year 164, and this year so far 115 have died There are 279 people on death row, but this figure is changing all the time"

In the early Eighties the figure dropped to below 100, but since 1985 it has been steadily climbing

"I imagine that part of the reason is the turbulence in our society So many of the cases now before the courts are broadly unrest-related."

South Africa now executes more people than Iran (which executed 158 last year) and far more than any other country in the Western world

"This tells us that South Africa is a violent and troubled society. The fact that 164 people went to the gallows means a whole series of capital crimes were committed — which reflects the enormity of the disequilibrium in our society

"And the fact that 164 people were hanged with no public outcry shows how desensitised we have become to moral issues, and what an uncompassionate society we have become

"In the United States, 25 people were executed last year out of a much larger total population, and it became a major issue in the Presidential campaign Yet, if it hadn't been for the Sharpeville Six and the international outcry, most people wouldn't have said anything about the South African figures — including me."

THE society is to call for the appointment of a judicial commission to go into the whole question of the death penalty, and failing this will raise funds and appoint a commission itself

Professor Davis said there were three main areas to be looked at

- The apparent bias in sentencing patterns in favour of whites,
- Whether the death penalty acts as a deterrent; and
- The system of pro Deo defence

On the question of bias, he said there was the "tragic impression" among the public that a black person was more likely to be hanged than a white person.

The statistics — nine whites hanged in 1987 out of a total of 164, three this year so far out of 110 — did not necessarily indicate bias, and the results of two studies into the question had been clouded by the fact they had been methodologically inaccurate

A scientific study in the American state of Georgia, and accepted by the US Supreme Court, had found there was a "far greater" chance of a black person who had killed a white receiving the death penalty than the other way around

Referring to the system of pro Deo defence, Prof Davis said he had severe difficulties with it

Most people facing a capital charge had defence counsels who were the most inexperienced advocates available, usually those who had just been appointed to the Bar Money was the only reason pro Deo cases were popular among junior advocates

"Some new advocates would starve at the Bar without pro-Deo work — it keeps you going for the first couple of years But it is immoral to have a system of justice in which an advocate's first case is a capital case, where a life is at stake"

PROF Davis said one of the major arguments against the death penalty in the US was the cost of the elaborate system of appeals and reviews before sentence could be carried out

"So if you want a proper system in which an accused is truly given the benefit of every doubt and the best the criminal justice system has to offer, then the cost argument in favour of abolition comes into play What we have here is the cheapest and worst possible system of defence"

He cited the case of the "Upington 25" who have been convicted of murder according to the doctrine of common purpose, and who have been defended by a single pro Deo defence counsel without the assistance of an attorney

"Only at the sentencing stage was the matter drawn to wider attention and funds have now become available — not from the State — for an eminent senior counsel and an able attorney"

He said there was no way that in a long and complicated case like this that 25 people should have been allowed to have been defended in this fashion It put an enormous and unfair onus on the judge, who instead of being able to concentrate on assessing the evidence, had to act as a quasi counsel for the defence because it was extremely difficult for one person to defend 25 people

Referring to the question of deterrence, Professor Davis said only one study ever published in the world had argued in favour of the deterrence factor, and it had been discredited

"There is no proof at all that the death penalty deters people If the death penalty were abolished I believe there would be no perceptible increase in crime I don't believe there would be an increase in ANC activity because I don't believe the death penalty deters ANC guerillas"

COMMON purpose coupled with the death penalty was another problem

The Sharpeville Six were not the first people to be found guilty under the doctrine of common purpose, "but the application of the doctrine to the set of facts in that case made for a unique judgment

"If you take the way the doctrine has been applied and laid down by the Appellate Division in this case, your act does not have to causally contribute in any direct sense to the death If a crowd of people descend on someone and behave aggressively to that person resulting in his or her death, they could all be convicted of murder and it makes no difference as to what level of participation there was The State does not have to prove that X or Y's actions actually contributed to the death

"The doctrine is now very broad For instance, if at a sports meeting I shout abuse at the referee, and as a result the crowd assaults him as he leaves the field and he dies, I could theoretically be guilty of murder

"And with such a wide doctrine of common purpose coupled with the death penalty you have an incredible problem This is what engendered the moral outrage here and abroad about the Sharpeville Six"

The mayor of East London, Mr Robert de Lange, meets the judge president of the Supreme Court (East Cape), Mr Justice J. P. G. Eksteen, and Mrs Eksteen at the president's banquet of the East London Attorney's Association

Judge president concerned over E Cape case backlog

DD 27/2/88 (252)

EAST LONDON — Justice delayed was justice denied, said the judge president of the Supreme Court (East Cape), Mr Justice J P G Eksteen, at the president's banquet of the East London Attorney's Association

The judge voiced "great concern" at the current delays in disposing of cases before the Supreme Court

He said that the nine permanent judges and the two seconded to help with the backlog were working hard to complete the cases They were hoping for an additional permanent judge

They had also decided to cut down on the time allotted for recess at mid-year and to start earlier in the new year to try to speed the course of justice

An additional problem was that they were also hearing more appeals in the Supreme Court.

The judge pointed out that the civil roll was 22 months behind in Grahamstown and 24 months behind in Port Elizabeth, though the civil situation was more satisfactory here

He said the judges were doing all they could to make justice more expeditious and he urged others involved in court work also to play their part in this respect without any lessening of integrity, fairness and impartiality to all concerned

Guests were welcomed by the president, Mr D W G Flemmer, and the president of the Law Society (Cape), Mr M Smith, replied — DDR

Lawyer questions arbitrary reprieves

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Argus 27/11/88

By SOL MORATHI, CHARLES MOGALE and Sapa

WHILE every reprieve from the death sentence was a victory for the abolition of capital punishment cause, the arbitrariness of the selection of those reprieved this week was frightening, the national director for Lawyers for Human Rights, Brian Currin, said yesterday

Commenting on the reprieves yesterday by the State President, PW Botha, he said the reprieve of the Sharpeville Six was clearly the result of unprecedented international pressure

"The fate of the four policemen was determined by local white, more particularly, conservative politics

"The question we ask is why should others, who do not become political play balls be less fortunate

"The subjectivity of this process when it involves the lives of people is totally unacceptable," said Currin.

This was all the more reason why his organisation believed capital punishment in South Africa be reviewed as a matter of extreme urgency

"We once again urge the government to establish a commission for this purpose"

● Meanwile, the Sharpeville Six would rather die than spend long years in prison under the grant of clemency given them by State President PW Botha, according to their lawyer, Prakash Diar

The Six had already decided not to petition the State President for clemency after the dismissal of their application for the reopening of their case by Acting Chief Justice Rabie in the Appeal Court in Bloemfontein on Wednesday

The Six were, in fact, ready to die before the announcement on Wednesday night that they had been reprieved.

They [illegible] they wo[illegible] rather die than ask for clemency as a reprieve if granted, would mean long or life-term prison sentences.

The Six felt they had suffered long enough while on death row, only a few weeks short of three years, and could not endure any more misery in prison.

They maintained they were innocent and would rather die and be left in the hands of God, who they believe knows the truth, than in the hands of men.

The Sharpeville Six are Duma Khumalo, Francis Mokhesi, Mojalefa Sefatsa, Reid Mokoena, Oupa Diniso and Theresa Ramashamola

They met Diar for almost three hours after the refusal of the application to have their case reopened

The Six are in separate cells and Diar met them individually. But all came to a united conclusion not to petition the State President

The Six expressed disappointment that 11 judges who presided over their case "could not see" that they were innocent

Khumalo and Mokhesi will now serve 25 years, Sefatsa 20 years and Mokoena, Diniso and Ramashamola will each serve 18 years

The trial of the Six began in September 1985 and they were convicted of murder three months later

The trial arose from the death of Lekoa councillor Khuzwayo Jacob Dlamini during the 1984 Vaal triangle riots

Two of the original accused, Motseki Christiaan Mokubung and Gideon Mokone – sentenced to five years each for public violence – had their sentences set aside by the Appeal Court

Meanwhile, many foreign governments and also the United Nations, who had appealed for clemency for the Six, welcomed the presidential reprieve

Diar, the Six's lawyer, said it was international pressure that had made President Botha commute the sentences

"I am happy, but I am astonished at the number of years they are going to be spending in prison," he said

Judge President gets Bar support

Cape Times 29/11/88

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Staff Reporter

THE chairman of the Pro Deo Committee of the Bar Council has come out in support of the Judge President of the Cape, in the controversy surrounding the near-mistaken hanging of Mr Isaac Tshongoyi

Tshongoyi was granted a stay of execution by a Pretoria judge on the afternoon before he was due to hang last week, when counsel pointed out that a notice of application for leave to appeal had never reached Bloemfontein

The chairman, Mr Doug Scott, pointed out that the relevant section read as follows "The accused may by petition addressed to the Chief Justice submit his application for leave to appeal to the Appellate Division, at the same time giving written notice that this has been done to the registrar of the provincial or local division within whose area of jurisdiction the trial took place"

This supported the Judge President, Mr Justice G G A Munnik's, stand on the matter, he said

The advocate who initially defended Tshongoyi said earlier that he had intrepreted the section as reading that "Section 316(6) of Act 51 of 1977 referred to the petition that was annexed, and specifically requested the registrar to forward these and all relevant documents to the Chief Justice, Appellate Division for consideration"

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recommendations it may have been influenced by this.

Two to hang

TWO people awaiting execution at the Central Prison in Pretoria were this week given notice that they will hang on Friday, said the national director of the Lawyers for Human Rights, Mr Brian Currin, yesterday.

The men, who are both from Natal, are Sabelo Duma and Knowledge Ndimande. The LHR attorneys were yesterday hoping to consult with the men today to find out who their lawyers were and if they had petitioned the Chief Justice or appealed to the Appeal Court.

Last Thursday five people were hanged in Pretoria bringing the number of those executed in South Africa this year to a record 175. The highest recorded figure of executions in the Western world were conducted in South Africa last with 164 people hanged. That was also the highest in this country since becoming the Union of South Africa in 1910 and a republic in 1961.

The present figure is based on the annual report of Amnesty International which recorded 164 executions this year during October. Since then the government has 11 more people. Six were executed two weeks ago while five were executed last week.

The US, which has a population of 240 million, has executed 25 people this year while South Africa with only 34 million has executed 175 this year with a month still to go.

cWhirter

Sowetan 30/11/88 (252)

Winning respect

• From Page 6

criticism, nor do we resent it for there is something far more important at stake. It is no less than freedom of speech itself. It is the right of every man, in parliament or out of it, in the Press or over the broadcast, to make fair comment, even outspoken comment, on matters of public interest

"All we would ask is that those who criticise us will remember that, in the nature of our office, we cannot reply to their criticisms . . . We must rely on our conduct itself to be its own vindication.

"So it comes to this. Mr Quintin Hogg has criticised the court that in so doing he is exercising his undoubted right. The article contains an error, no doubt, but errors do not make it a contempt of court. We must uphold his right to the uttermost . . ."

The times ahead are likely to be troubled. The recent past has itself demonstrated that our entire society, including our courts, are becoming increasingly sensitive to criticism and freedom of speech in South Africa is under its most severe attack ever.

Only this week, the American government has added its voice to the criticism of the judgment in the Delmas treason trial when four people were convicted of treason and another seven of terrorism.

The Minister of Justice, Mr Kobie Coetsee in response, has publicly refuted the allegations that a misuse of the judicial system for political purposes had occurred

Our courts and indeed our judicial system are again the subject of a controversy. It is to be hoped that our courts are able to rise to the challenge and meet their critics comments by following the fine and proper example set by Lord Denning.

SA courts taxed by marathon hearings

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Star 30/11/88

By CATHY STAGG, Supreme Court Reporter

Lengthy court hearings burden the judiciary. But lawyers shrink from changing procedures which have been used for centuries

Criminal trials which have a political flavour are much lengthier than ordinary criminal trials

They usually involve more accused

The large number of people in the dock results in more family and friends attending the trial, and the better known the accused are the more onlookers attend

At one time most trials of this type were heard in outlying areas There were fears that buildings in which they were heard might become a target for sabotage In the past few years, the trend has been to increase security at the courts in the main centres and for the trials to be more accessible to all concerned

At the Rand Supreme Court, for example, new courts have been built, including one with a particularly big dock and larger than usual public gallery

The problem of seating everyone has been largely overcome.

But the length of the trials remains a problem

Probably the best example of this is the "Delmas" treason trial

It has taken 37 months, led to 27 194 pages of evidence and is due to resume in Pretoria's Palace of Justice on December 5 for evidence in mitigation Of the 22 men originally on trial, three were acquitted at the end of 1986, and eight were acquitted recently, leaving 11 in the dock.

Pre-trial conferences

Earlier this month, Mr Justice K van Dijkhorst said one should not have to "run an ultra marathon" to decide guilt or innocence

The judge suggested courts should be empowered to call pre-trial conferences in criminal matters and that courts should be allowed to hear specific matters without waiting until the prosecution had completed its entire case

Legal opinion on these suggestions is generally in favour of any investigation into methods to save the vast amount of time and money spent on trials, but it is doubted that these particular suggestions will work in practice

Mr Justice J J Trengove, QC, a retired judge of appeal, speaking from his holiday home, said he had not seen Mr Justice van Dijkhorst's remarks but he agreed there should be some method of disposing of issues which would decide a criminal case one way or an other.

Mr Justice Trengove used the example of a civil damages claim arising from a vehicle collision The issue of negligence can be dealt with first because if no one is to blame for the collision there is no need to hear further evidence There should be something similar in criminal cases, he said

The chairman of the General Council of the Bar of South Africa, Mr Ralph Zulman, SC, was in favour of the principle of speeding up a trial but said the detail was another matter The right of the accused to remain silent was very important, he said.

Mr Zulman felt there was a lot to be said for the State deciding on its best case, for example treason, and proving that without alternative charges

At one time the charge of treason was rare in our courts The recent trend has been to charge people with this common law offence instead of contraventions of statutes such as the Internal Security Act, but usually the statutory contraventions form alternatives to the main charge.

Mr Klaus von Lieres, Attorney-General for the Witwatersrand Local Division, said there were many cases which supported the principle that courts do not hear evidence "piecemeal"

Mr D B Brunette, SC, Attorney-General for the Transvaal, said the judge's suggestions were constructive but the pre-trial conference would have limited application because in a political matter it was difficult to disclose what witnesses would say.

"A lot of thought went into the rules of procedure and the law of evidence It would be very difficult to shorten them If the rules were shortened, then you would have the critism that it was not a fair trial Then you are dealing with rules of expediency, the sort of thing De Gaulle ran into during the trials arising from the Algerian conflict," he said

He said Section 119 of the present Criminal Procedure Act gave the accused an opportunity to give the basis of his defence and make admissions.

"That was supposed to cut down on time. My prosecutors tell me it is now slower than the old procedure," he said

Mr Brunette said the 119 procedure could reduce unnecessary issues in simple trials but it was not relied upon in big trials because it was unfair to expect an accused to plead to an indictment of perhaps 30 paragraphs before he had been through it with counsel

Mr Chris Botha, SC, a member of the Pretoria Bar, said there were antecedents for separating issues For example, the trial within a trial over the admissibility of a confession. Another example after a murder conviction, a new inquiry begins into whether there are extenuating circumstances.

Question of liars

The problem Mr Botha foresaw with hearing the main issue first was that if the court had to make a credibility finding, there would be the invidious situation in which the judge would have to continue the trial after finding an accused to be a liar.

Regarding the pre-trial confernece, he said that in civil matters the partes often settled once the main issue had been decided, but in a criminal matter there could be no settlement — there had to be a verdict.

Mr Ernie Naude, president of the Law Society of the Transvaal said. "If one could identify the main issue, perhaps the side issues would fall away but it must be extremely difficult to isolate them

"I am not sure it would work to virtually compel the defence to deal with one issue at a time when all paths should be open to them

"It might be to the defence's advantage to deal with the side issues first to lead into the main issue."

All those interviewed supported the need for an investigation into how lengthy trials could be shortened — but lawyers were cautious about

Justice 'is suffering' as prosecutors break out

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PK 6/5 1/12/88

By MICHAEL MORRIS
Staff Reporter

THE government is increasing salaries for prosecutors in a bid to slow the pace of resignations that lawyers claim have impoverished the country's lower courts.

Uncertainty surrounds the amount and timing of the increase, which was announced ahead of schedule in a move to placate State legal staff

But it appears the Department of Justice may have misjudged the symptoms of a more intrinsic malady for which the prescription of bigger salaries is not likely to be a lasting remedy

Discontent is high among prosecutors but not, by all accounts, because they are poorly paid

Minister of Justice Mr Kobie Coetsee announced salary increases after learning that 116 prosecutors had resigned by September 30 this year, against 104 resignations during the whole of last year

Discontent

He hoped "the advanced salary adjustments will bring (legal staff) greater peace of mind in the knowledge that they can proceed with careers giving them job satisfaction without constantly having to think about salaries and possibilities elewhere"

But a prosecutor who resigned recently says discontent stems from the job itself, rather than the rewards

One of the favourite topics of conversation in the court tea-room, according to lawyers, was that the staff crisis in the courts was predicted by the Hoexter Commission report of 1983 which warned of a "collapse in the administration of justice within the foreseeable future" unless changes were made

Among other things, Mr Justice Hoexter found that "presiding judicial officers experience difficulties because of the disturbingly low average level of experience on the part of prosecutors."

The situation appears to have worsened since the Hoexter Report

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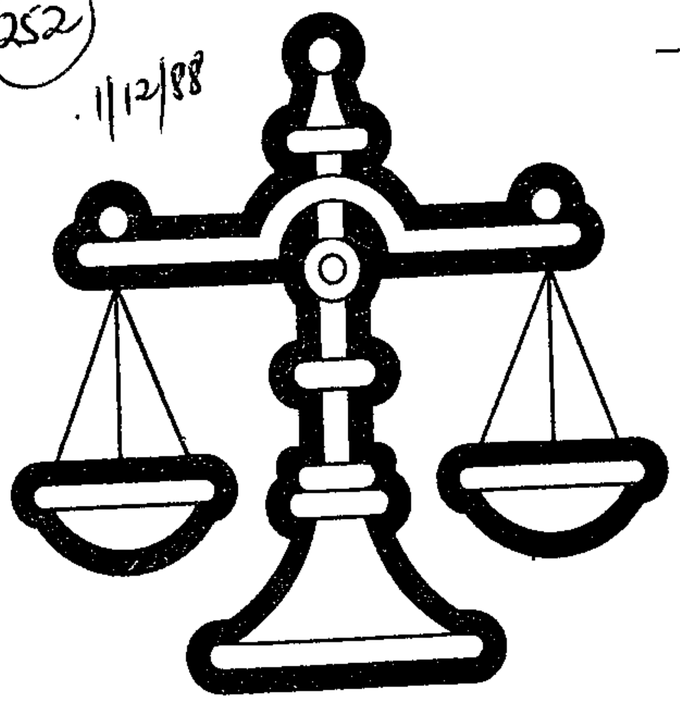
1/12/88



Justice in South Africa's magistrate's courts — where 90 percent of the country's criminal trials are heard — is threatened by a staff crisis for which, lawyers claim, the Department of Justice has failed to produce an adequate remedy. More than 100 State attorneys have resigned since January and younger, often less experienced, men and women have had to take over their jobs.

In Cape Town, an attorney in private practice says the situation is "prejudicing good order and justice". A former prosecutor says there have been more acquittals because cases are being "shoddily presented". He estimates that the level of experience in the Cape Town regional court, for example, is only about two years.

However, the Department of Justice says it is committed to the "pursuit of justice for all at all times under all circumstances" and rejects the charge that cases are "shoddily presented" because experienced staff have resigned.

The former prosecutor, who asked not to be named, left because he had "had enough" He said money was not "an issue"

"A salary increase will bring a temporary stop to the resignations, but within a year or two that effect will wear off.

"The question is How much longer can you carry on doing that? Money is not the problem The whole service has to be restructured

"Experienced people are leaving at an alarming rate because of the lack of opportunity, absence of differentiated salaries, threat of transfer, excessive red-tape and the treatment of professionals as if they were clerks"

A sense of insecurity permeated the work environment because of the "inflexibility" of the system of transfers, there was resentment because salaries for prosecutors doing vastly different jobs were not differentiated, and prosecutors also bemoaned the "excessive red tape in the department"

"People get fed up with working really hard, sometimes starting at 6am, and then making some silly administrative blunder or leaving for home five minutes early and getting into trouble for that

"As a general rule, prosecutors are not treated as professionals All these things combine to make prosecutors look elsewhere

"There was a time when prosecutors were not qualified to do anything else and it seems the department's attitude has not changed since then Now most prosecutors have an LlB or BProc degree they are very marketable and can easily move into the private sector . . but the department has not faced up to that fact yet"

The result was that the level of experience had dropped drastically

"In the Cape Town regional court, for example, the level of experience is about two years, and that is nothing Cases are being shoddily presented because prosecutors just do not have the experience

They do not have anybody to learn from and they do not have time to develop in the lower courts where they should be nurtured and developed before coming up"

He did not believe resignations were having an adverse effect on justice .. "except in so far as it is possible that people are being acquitted far more regularly because cases are not being properly handled"

In a "touch-and-go case, conviction depends on a skilful cross-examination and if the prosecutor does not have the experience and is not successful in doing this, the accused is often acquitted"

Important element

An attorney in private practice complained that the loss of experienced prosecutors had created problems that were "prejudicing good order and justice" in the lower courts.

"The most important element in the armoury of anyone conducting a criminal case is experience This shortage certainly frustrates justice on occasions

"I think experienced people are leaving because there are not sufficient opportunities and their working conditions are poor there is a lot of administrative work and they are pushed from one place to another These conditions are not at all conducive to peace and harmony in the workplace"

The former prosecutor said a senior prosecutor — after five or six years' service — earned in the region of R3 500 a month and terms of service included an "excellent housing subsidy, a good medical aid, a good pension and 30 days' leave a year"

'We're doing our best to keep staff' — department

By MICHAEL MORRIS, Staff Reporter

THE Department of Justice concedes that the high rate of resignations among prosecutors has caused a decline in the level of experience among legal personnel.

But it insists that the "pursuit of justice for all, at all times and under all circumstances" is a priority and it rejects the "sweeping allegation" by a former prosecutor that cases are being "shoddily presented" because many experienced prosecutors have resigned

The department says in a statement."The government is understandably concerned about the drain of experience The problem is receiving attention at the highest level and action is being taken on an ongoing basis. The recently announced salary increase for legal personnel is an example."

"ARBITRARY"

The former prosecutor who spoke to The Argus thought that a salary increase would bring only temporary relief but the department says that to dismiss it is being "arbitrary".

It says that the increase should be judged for what it is. a measure on the part of the government to stem the drain of legally qualified personnel from the public service.

Responding to the charge that prosecutors are resigning because of "the lack of opportunity, absence of differentiated salaries, threat of transfer, excessive red tape and the treatment of professionals as if they were clerks", the department says: "There is in fact much scope for enterprise . and it is actively encouraged through a system of special rewards for particular achievements.

INTRICATE

"Differentiation of salaries is an intricate problem encompassing many factors Transfers are endemic to any countrywide organisation and public servants know this the day they join the service.

"Transfers are approached with circumspection and with due regard for the individual — people are not merely pushed from one place to another.

"The department strives for high productivity and believes, like all other employers, that a happy work force is the key to achieving this. All employees are therefore treated with respect, be they clerks at the lowest level or senior professionals."

Responding to points raised by the attorney in private practice, the department says: "The attorney .. makes sweeping statements regarding working conditions

"One should bear in mind that some private practitioners accept as barely adequate conditions which to others may seem not only adequate but bordering on the luxurious."

On the specific complaint that prosecutors were moved from one case to another, causing delays, the department says: "This is a problem the courts have always had to deal with, even when staffed at full capacity.

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Cape man wins appeal against noose

BLOEMFONTEIN. — The Appeal Court has set aside the death sentence imposed on a Heideveld man, Albert Petersen, for robbery with aggravating circumstances and substituted imprisonment of three years.

It also allowed his appeal against a conviction and 10-year jail term for murder.

Petersen was convicted by Mr Justice A J Lategan in the Cape Supreme Court on October 30, 1987, for the murder and robbery of Mr Gavin Arendse, at Mitchells Plain on August 31, 1986.

Appeal Court judge Mr Justice Botha said the circumstances of the case were unusual as there had been no common action between Petersen and another man, named September, until the latter had wounded Mr Arendse, and no co-operation between them thereafter.

September's wild and short-lived participation in the events was, on the face of it, strange and unexpected. Thereafter, Petersen had merely continued what he had been doing — trying to rob Mr Arendse of his jacket.

The judge concluded that Petersen's conviction for murder could not stand.

On the death sentence for the robbery, Mr Justice Botha said that — with all respect to the trial judge — the sentence was so shockingly inappropriate that it flabbergasted him

It appeared that the judge's decision to impose the death sentence could only be explained on the basis that he wanted to punish Petersen for the fact that Mr Arendse had died in the robbery — after he had already imprisoned him for 10 years because the man died

"It was a gross misdirection to take the fact that the deceased died into consideration again when an appropriate sentence for the robbery was considered, particularly in the circumstances of the present case.

"What is particularly disturbing, is that the trial judge in a previous case which came on appeal to this court, made a mistake of exactly the same sort as here.

"I must accept that the trial judge did not take notice of what was said in the judgment of this court in that case I can only express the hope that he will now take notice," said Mr Justice Botha.

The view of the Appeal Court was that an appropriate sentence for Petersen was four years. He had already been in jail for a year when he was sentenced by the trial judge. This could not be regarded as imprisonment served as a result of a sentence imposed on him.

The judge said that because of the wording of Section 282 of the Criminal Procedure Act, the Appeal Court could not backdate the sentence that was to be substituted for that imposed by the trial judge. This was a gap in the Act which should be rectified.

To avoid any unreasonableness towards Petersen, the judge was of the view that the year which he had already spent in jail should be deducted from the term that he should have originally received. — Sapa

MARRIAGE LAWS TO CHANGE

Sowetan .1/12/88

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BIG changes to the marriage laws affecting blacks come into effect tomorrow and the Department of Justice is launching an information campaign to tell the public about the most important points.

It will bring black marriage laws into line wth those affecting whites, coloureds and Indians.

The changes were made in the Marriage and Matrimonial Property Law Amendment Act passed by Parliament earlier this year based on the recommendation of the Law Commission, says a statement by the Minister of Justice, Mr Cobie Coetsee

From tomorrow the major changes will be

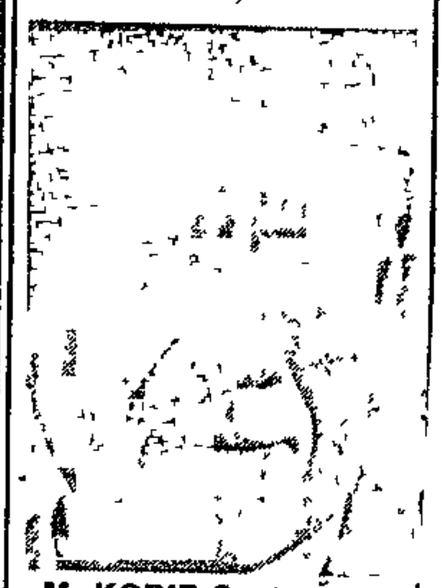
The marital power of the husband is abolished in respect of marriages of blacks that are made after the Act comes into effect.

Contrary to the present position, blacks will be married in community of property, unless it is excluded by ante-nuptial contract

Marriages in community of property will be subject to the system of concurrent management.

The provisions of the Divorce Act will apply to black marriages made before the Act comes into effect This enables a court to transfer assets from one spouse to the other on divorce in certain marriages out of community of property.

In the case of marriages made before the Act comes into effect, the same options available to other races will be available to black couples to change the matrimonial property system applicable to their marriage while it subsists



Mr KOBIE Coetsee .. eradicating evil

The new Act takes away the right of a black who is married by customary law to get married, unless he marries his customary law wife and provided he has no other customary law wife

"The object is to combat the evil of the woman and children being discarded without dissolving the customary union in terms of customary law, with the resulting social problems," the Minister explained — Sapa

Community service in council

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By BRONWYN DAVIDS
Staff Reporter

THE City Council has endorsed community service as an alternative to imprisonment by providing positions in all its departments for people convicted of crimes ranging from murder to drunken driving.

This reflects the line taken by the courts after the government's decision this year to expand the system of community service sentences

The decision was based on the Department of Justice's belief that community service would serve the needs of offenders and the community better than imprisonment.

The high prison population led to other sentencing options being considered, of which community service was one

The courts have discretion in the type of service offenders perform and are assisted by Nicro (Institute for Crime Prevention and Rehabilitation of Offenders)

Nicro statistics show that from February to November this year 92 people were placed in community service, with 10 cases still pending

Community service sentences cater for the convicted person who is not a danger to society allowing him to pay for his misdeed by serving the community, instead of sending him to prison at the taxpayer's expense, to be exposed to negative and harmful influences.

Mrs Isobel Hancock, a senior Nicro social worker responsible for co-ordinating community service orders said the benefits were numerous as offenders remained in society with their families

"The offender does not have to face readjusting to society and he is able to make reparation for harm done by rendering unpaid service to organisations needing voluntary help.

"The offender also benefits from appreciation, which boosts his or her self-esteem and confidence Low self-esteem is often the reason the crime was committed in the first place"

Suspended sentence

"It is not a soft option because the server has to work very hard in his or her spare time without payment For instance, instead of lying in the sun these holidays, there will be many people involved in serving their community

"Community service orders always come with a suspended sentence and probation as it is both a punishment and a right."

Careful selection is made by a panel who look for a degree of stability and a sense of responsibility and remorse in the offender

The panel examines previous offences, the seriousness of the offence, family, personal, health, work and finacial circumstances, other sentencing options like a treatment order and identify strengths and weaknesses

The panel which includes about two Nicro social workers, two probation officers and members of the family will examine the motivation of the offender to assist the community They also consider the protection of the community

Standard criteria for community service are the offender must be over 15, be willing to undertake community service, have accommodation and stable links in the community and must have been convicted of an offence punishable by imprisonment.

Personal well-being and psycho-social problems experienced are all taken into consideration The server also visits a probation officer at least once a month All this results in the building of a support network which promotes independence

If the server shirks responsibility by not fulfilling conditions of regular attendance, sobriety, punctuality and co-operativeness he is referred back to court. The court may then apply the suspended jail sentence

Included in a list of about 70 placement agencies are municipalities, hospitals, clubs and schools for the handicapped, advice offices, children's and old aged homes, museums, Kirstenbosch Botanic Gardens, churches, police stations and training centres.

Double death for Welkom murders

Leave to appeal on only one count

Star 1/12/88

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By Jo-Anne Collinge

A double death sentence has been imposed on a National Union of Mineworkers shaft steward by the Free State Supreme Court with leave to appeal granted in respect of one conviction only, a spokesman for a Johannesburg attorney said yesterday.

The capital sentences have been imposed for the murder of a mine engineer and a mine security guard in June 1987

An appeal for clemency for Dilizintaba "Lucky" Nomnganga would be made to the State President in respect of the murder conviction for which an appeal had been turned down, the spokesman for the attorneys, Krish Naidoo and Associates, added

Eight other NUM members at Welkom's Western Holdings gold mine were convicted of murder but Mr Justice van Coller found extenuating circumstances and they received jail sentences ranging from an effective 18 months to 10 years

The murders for which they were convicted occurred during a riot sparked by dismissals at the mine in June 1987 Two mine officials — engineer Mr Kevin van Dyk and security guard Mr Lukas de Wet — were stabbed and beaten to death by a mob. Six mine workers were shot dead in the same clash

Originally 243 people were arrested over the killings All wore amulets which the State alleged had been provided by a witchdoctor to protect them against bullets

Eventually, 16 of the group were brought trial and seven were acquitted

The witchdoctor, 67-year-old Seitimband Nqungu, died in detention six months after being apprehended

NUM shaft steward Nziwamadoda Gogela also died in custody before the trial began

Nomnganga's attorney said he had been convicted on grounds of showing common purpose with the mob There had been no direct evidence that he inflicted any of the fatal wounds, the attorney said

But he was alleged to have given a whistle to signal the start of an attack And it was the State's case that the killings had been planned at a meeting two days before the riot

The attorney said that allegations of police torture had been made during the hearing

Star 2/12/88 (252)

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Woodgate,
Reporter

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Bill of Rights essential to new SA constitution

Staff Reporter

South Africa's next constitution, based on the authority of all the people, must contain a fully entrenched Bill of Rights, the leader of the Progressive Federal Party, Dr Zach de Beer, said in Port Elizabeth last night.

Speaking at a human rights conference, Dr de Beer said the protection of minorities would be of cardinal importance in South Afria for a very long time to come.

"This can be achieved through a system of proportional representation, with a low threshold like 5 percent, either per province or throughout the country, as may be negotiated.

"This truly is important: The British winner-take-all, first-past-the-post system, which we inherited, serves its purpose in its mother country only because the deep-rooted conventions which govern parliamentary practice there are inviolable," he said

Dr De Beer said the constitution of any country which claimed to be free and democratic should be the supreme organ of the government

SOVEREIGNTY

The sovereignty of parliament itself should be circumscribed by the higher sovereignty of the constitution.

"I do not think it worth taking up your time with a description of the present South African Constitution, poor gerrymandered, prostituted thing that it is.

"But when next we get one — and this one will be based upon the authority of all the people — then it must contain a fully entrenched Bill of Rights, guaranteeing to all South Africans an adult franchise, freedom of speech, expression, assembly, religion, association, movement, the right to acquire, own and dispose of property, privacy of home and correspondence, Habeas corpus, equality before the law, regardless of race, sex or other arbitrary criterion and other fundamental rights," he said.

If human rights were to be protected and to flourish again in South Africa one day, then freedom had to be extended into the economy because prosperity depended on the imagination, ambition, drive and efficiency of free people.

Star 2/12/88 (252)

Bill of Rights essential to new SA constitution

Staff Reporter

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If human rights were to be protected and to flourish again in South Africa one day, then freedom had to be extended into the economy because prosperity depended on the imagination, ambition, drive and efficiency of free people

Star 3/12/88 (222)

Death row — four appeals turned down

BLOEMFONTEIN — Four men had their applications for leave to appeal against the death penalty dismissed by the Appeal Court here.

George Phuluwa — no address given — received the death penalty for the "muti" murder of Mr Phineas Nemaxwi at Vondwe township in the Thohoyandou district on November 12 1984.

The other three men, all employed as Putco bus drivers, Stanford Ngubo, of kwaMakhutha, Johannes Buthelezi, of Dulangweni Reserve, and Bethwell Sabelo, of Sawpits Reserve — took part in a strike organised by Cosatu in November 1986. They refused to collect fares from passengers.

They were found guilty of the murder of Mr Petford Shezi, a bus driver who had refused to take part in the strike. He was killed at Umbumbulu on November 20 1986

The Appeal Court, however, has granted Ndabehle Shabangu — no address given — leave to appeal to a full bench of the Transvaal Supreme Court against his convictions for murder, arson and intimidation The murder victim was Mr Solomon Lekhuleni, who died on May 1 1986 when two of his huts were razed to the ground.

David Mokoena, one of the co-accused, was sentenced to death after no extenuation was found for him for the murder. Earlier this week he was refused leave to appeal.

The Saturday Star's correspondent in Durban reports that two hired killers who murdered a Nongoma businessman were sentenced to death by Mr Justice Kriek in the Supreme Court there yesterday.

David Mlumbi (25) and Mzukuzuku Khuzwayo (26) were convicted by the judge and two assessors of murdering Mr Tamsanqa Luthuli by shooting him and attempting to murder his wife Mrs Dorcas Luthuli with an axe at Nongoma on April 30 last year.

Both were sentenced to death for murder without extenuating circumstances and eight years' imprisonment each for the attempted murder.

Finding there were no extenuating circumstances, Mr Justice Kriek said that they and Mthethwa were in fact hired killers. They had gone with the purpose of killing Mr Luthuli and his wife. They succeeded in killing him and Mrs Luthuli was lucky to be alive.

An application for leave to appeal was refused. — Sapa.

Public legal service access vital to justice

C/Press 4/12/88

(252)

Legal aid clinics can bring the law closer to the people

By KERRY CULLINAN

IF people do not have access to legal services, it is impossible to talk about the existence of law and justice.

This is the opinion of Stellenbosch University professor, LWH Ackermann, published in the latest edition of the SA attorneys' journal, *De Rebus*

According to Ackermann, accessibility of legal services not only preserves law and order, but also protects and preserves society and is important for the constitutional future of South Africa

"People need to see the law in action, need to see it work and need to see it work effectively as a protective mechanism," asserts Ackermann

"A society can take away a person's rights by taking away his remedies," he claims in his plea for accessible legal services to be made the highest priority in the administration of justice.

Rights can actively be removed by state decree, or simply omitted, he claims

Arbitrary detention without access to legal representatives is an example of how, through state action, someone's status as a person before the law is removed, says Ackermann

On the other hand, if a society does not provide the means by which people can enforce their rights, they are also rendered helpless

"When people too often observe that wrongs go unredressed, they will ultimately conclude that society sanctions wrongs or, at the very least, that society places no restraint upon wrongdoing," the academic asserts.

"No one who has read a review record in which an unrepresented, uneducated and unsophisticated accused has tried to put into practice the art of cross-examination will not realise what a nightmare it must be for such an accused Can one truly imagine that justice has been done in all these cases?"

He praises legal resource centres and legal aid clinics for their efforts to bring the law closer to the people.

"The greater the access to legal services, the greater the access to justice and the greater the inculcation in society generally of a belief in rights and the reality of their enforcement and the affirmation of the dignity of the members of that society."

He calls on leading lawyers to involve themselves in legal aid clinics to show law students that the gap they perceive between theoretical law and its practical application can be addressed

In concluding, Ackermann says making the legal process accessible to people will, in turn, make them believe that a constitution to guide society is workable

"The sooner people are able to see (the law) in practice, the greater is the chance that they might come to believe that constitutions can be effective."

If a constitution develops as a technological, abstract, legal solution it will not succeed as people will not understand it, let alone subscribe or live by it, he asserts

Thus Ackermann's fundamental assertion is that if people have access to the law, their grievances will be addressed and they will develop faith in a constitutional system

Delmas trial sparks new rallying cry

252

4/12/88 Cpress

By KERRY CULLINAN

JUDGMENT in the Delmas trial has provided the embattled anti-apartheid movement with a new opportunity to organise and mobilise

According to the judgment, passed two weeks ago, the UDF acted as the "internal wing of the ANC" Three office bearers – Terror Lekota, Popo Molefe and Moss Chikane – were found guilty of treason

An ad-hoc Delmas Support Committee has been formed and is organising a mass meeting on Tuesday night under the banner "Opposition to apartheid is not treason"

In a pamphlet appealing to people to attend the meeting, the committee says "The judgment narrows the space for lawful opposition Lawyers say this means that any political demand to dismantle apartheid could be seen as violent and therefore treasonous

"It was not just the 19 comrades on trial at Delmas It was the whole democratic movement – our way of working, our campaigns, our mass mobilisation – that were on trial"

The mass meeting, at Wits University's Flower Hall, has been arranged to coincide with the passing of sentence in the trial

Speakers include SACC's Frank Chikane and Cosatu's Jay Naidoo

The trial reopens on Monday in the Pretoria Supreme Court, when the defence will argue in mitigation of sentence They expect their argument to last for a day and a half before sentence is passed

Hundreds of people are expected to turn up at the courtroom on Monday

The Delmas Support Committee expects 3 000 people to attend its meeting

The committee held a briefing session for diplomats yesterday to explain how they understood the implications of the judgment

It is unclear at this stage whether a campaign for the release of the 11 found guilty of treason or terrorism will be launched

Objector Toms released after 9 months' jail

(252)

C/Press 4/12/88

DR Ivan Toms, released this week after serving half of an 18-month prison sentence for refusing to attend an army camp, said his experience in prison had made him "twice as determined to fight for what I believe in"

He was hugged and kissed by friends who waited outside Pollsmoor Prison after a Wynberg Magistrate had ordered his release

Minutes after he was freed Toms described his jail life as "isolated and lonely"

Toms, 36, was released on R1 000 bail pending an appeal court hearing which will decide if his sentence will be upheld or not

The Supreme Court had earlier in the day granted him leave to appeal to the Appelate Division

His argument hinges on whether the courts can use their discretion when dealing with conscientious objectors, or are compelled to enforce the sentence provided for in the Defence Act

If the appeal fails he will be sent back to prison for another nine months.

Toms said that although he was "incredibly joyful" to be out, his thoughts were with two other conscientious objectors

David Bruce in Pretoria Central in his fourth month of a six-year sentence for refusing military service and 18-year-old Charles Bester, facing a similar sentence – Sapa

Death row man's dad drowns

C/Press 4/12/88 (252)

CP Correspondent

THE body of a man found drowned in a dam in Uitenhage last month has been indentified as the father of a prisoner presently on death row in Pretoria.

Ketelo Lucas, 58, was missing for 24 hours before he was found by police.

His son, Mthetheleli Lucas, 24, is one of four men who were sentenced to death by the Grahamstown Supreme Court in March this year for the murder of an alleged informer, Thozamile Dondashe, in 1985.

Another son, Ntobeko Daku, said his father had been fetched from home the day he disappeared It was believed the man who fetched him was later arrested for driving under the influence of liquor.

He said that when the man was released he said he had no recollection of picking Lucas up. — Pen

Uniform new marriage law

C/Pen 4/12/88

THE Department of Justice has launched an information campaign to tell the black public about the newly-changed marriage laws

The new laws bring black marriage laws into line with those of other races

The changes were made in the Marriage and Matrimonial Property Law Amendment Act passed by Parliament earlier this year based on the recommendations of the Law Commission, says a statement by the Minister of Justice, Kobie Coetsee

The major changes of the Act, which takes effect immediately, are

- The marital power of the husband is abolished in respect of marriages of blacks that are made after the Act comes into effect
- Contrary to the present position, blacks will be married in community of property unless this is excluded by ante-nuptial contract
- The provisions of the Divorce Act will apply to black marriages made before the Act takes effect
- In the case of marriages made before the Act takes effect, the same options available to other races will be available to black couples to change the matrimonial property system applicable to their marriage while it subsists
- The new Act takes away the right of a black who is married by customary law to get married again, unless he marries his customary law wife

"The object is to combat the evil of the woman and children being discarded without dissolving the customary union in terms of customary law," the Minister explained – Sapa

Ccawusa member on fraud charge

C/P 4/12/88

By STAN MHLONGO

A RUSTENBURG member of the Commercial, Catering and Allied Workers' Union of SA will appear in court on December 15 for allegedly defrauding the Ackermans chain store of an undisclosed amount while employed as a cashier

Dorah Tshwagong, 30, was suspended from work this week for allegedly registering an incorrect amount of goods bought by a customer.

Ccawusa official Meshack Getyes said Tshwagong was also "accused of pocketing some of the money for herself"

Getyes said that on November 29 he went to the store to investigate complaints against Tshwagong.

"I was told the affair was an internal matter But to my surprise, the police were called and Tshwagong was arrested," said Getyes.

Ackermans' personnel manager Piet Brand denied the police had been called to arrest Tshwagong

Nkomo death hearing postponed

C/Press 4/12/88 (252)

By SOPHIE TEMA

FORMER Soweto deputy mayor Patrick Ndaba and his co-accused Patrick Mfeka appeared briefly in the Johannesburg Magistrates Court this week on a charge of murder and their case was postponed to January 26

Their appearance follows the death of Sofasonke Party member David Nkomo, 45, who was allegedly gunned down at his Tshiawelo home on August 26 this year

Nkomo was to oppose Ndaba in the October municipal elections

Ndaba, who has pleaded not guilty to the charge, has been refused bail four times by Magistrate PH Bredenkamp

His bail applications were refused on the grounds that two suspects alleged to have been hired by him and Mfeka are still missing, that he would interfere with State witnesses and that he might be killed by Nkomo's followers

His attorney, T Shapiro, said there was a possibility that a fifth bail application could be brought to court

Dark days ahead for Black Chain shoppers

C/Press 4/12/88

By CONNIE MOLUSI

BLACK Chain remained closed this week after a case involving the Soweto-based supermarket was postponed in the Rand Supreme Court

The closure of the store is a sequel to the dispute between Black Chain and Jazz Stores, which was granted an order for the closure until the conflict was resolved in court

Jazz Stores has removed all perishable goods and fridges from Black Chain while the dispute continues

Soweto shoppers are hard hit by the closure of Black Chain, the nearest large supermarket to the township, and many have been forced to shop in Johannesburg

Meanwhile, the Southern Transvaal African Chamber of Commerce (Soutacoc) has threatened to intervene

Joe Hlongwane, the deputy president of Nafcoc and the chairman of Soutacoc, said they were preparing for a meeting between a Nafcoc delegation and Cecil Smith, the chief executive director of Metro, the largest single shareholders in Jazz Stores

"We need sound business relations between black and white business," he said

"If this conflict continues Nafcoc will summon its management from all over South Africa to discuss the Black Chain-Jazz Stores impasse

"Nafcoc views Black Chain not only as a business, but as a symbol of the few black initiatives which have succeeded

"The closure of the store at a time when the shoppers need it most threatens the reputation and undermines the achievements of Black Chain," said Hlongwane

Political comment and newsbills by K Sibiya Headlines and sub-editing by C Fram, of 204 Eloff Street Ext, Johannesburg

STRONG CRITICISM OF CAPE JUDGE MAY LEAD TO TOP-LEVEL INQUIRY

By NORMAN WEST

A HUMAN rights lawyer, Professor Dennis Davis, has commissioned a study of criminal cases presided over by a Cape Town judge and will include his findings in a letter to the Minister of Justice, Mr Kobie Coetzee

This has been one of a number of responses to the remarks of an Appeal Court judge in upholding an appeal against a judgment handed down by Mr Justice A J "Braam" Lategan in the Cape Town Supreme Court.

The Appeal Court judge, Mr Justice Botha, last week called the death sentence Mr Justice Lategan pronounced on Albert Petersen, of Heidveld, on the Cape Flats as "so shockingly inappropriate that it flabbergasted me".

The Appeal Court set aside the death sentence imposed for robbery with aggravating circumstances and substituted imprisonment of three years

It also granted Petersen leave to appeal against his conviction and imprisonment of 10 years for murder.

The Judge President of the Cape, Mr Justice G G A Munnik, said he would "read and take note" of the Appeal Court ruling.

The vice-chairman of the General Bar Council of South Africa, Mr Milton Seligson SC, said the council would "consider" the judgment once members had read it. (252)

Petersen was convicted by Judge Lategan on October 30 1987 for the murder and robbery of Mr Gavin Arendse, at Mitchells Plain on August 31 1986 S/Times 4/12/88

Petersen appealed. In handing down his judgment, Appeal Court Judge Botha said it appeared that Judge Lategan's decision to impose the death sentence could only be explained on the basis that he wanted to "punish" Petersen for the fact that Mr Arendse had died in the robbery — although he had already imprisoned him for 10 years because the man had died

S/Times 4/12/88 (252)

DEATH OF A FARMWORKER

by Israel Maisels QC

South Africa's senior silk, looks at a recent controversial judgment

THERE has rightly been much critical comment about the recent sentence imposed by Mr Justice J J Strydom, one of the most senior members of the Transvaal Bench, on one Jacobus Vorster

Vorster, it may be recalled, was found guilty in the Circuit Court at Louis Trichardt of culpable homicide for bringing about the death of a black farm labourer in what, from all accounts, was a most brutal manner

The sentence has been the subject of articles, statements and letters critical of and protesting against what is considered to be a quite inappropriate and unacceptable sentence having regard to the serious nature and the circumstances of the crime

The Johannesburg Bar Council and I have endeavoured to obtain a copy of the judge's reasons for imposing this sentence, but we have been informed by the Attorney-General, who has also done so, that these are not available, apparently because the judgment has not been revised by the judge

Facts

A revision of a judgment is usually undertaken in order to enable typing and grammatical errors to be corrected It is unfortunate, and perhaps a matter of some surprise, the accused having been sentenced as far back as early November 1988, that these reasons are not yet to hand

I have, therefore, had to rely on the facts fully reported in the newspaper I have no reason to believe the reports are in any way incorrect, and I am of the opinion that it is of some importance that a somewhat detailed comment on this case should not be delayed any longer

The deceased, who was employed on Vorster's farm, had apparently some days before his death been guilty of negligently switching on a tractor to which a slasher was attached, allegedly "despite the fact that he was aware of the presence of two dogs and had been warned not to switch the tractor on" One dog died and the other was maimed as a result of the injuries sustained

Vorster was apparently very fond of the dogs and when he found out what the deceased, Eric Sambo, had done, he admitted in a signed statement to binding Sambo with rope to a tree

Vorster also admitted punching the man with his fists, hitting him with a stick, ordering four labourers to beat the man with sticks, which they did, placing a cloth over the man's head and pouring water over it, kicking his feet out from under him so that he fell, kicking him on the body and firing shots near the man to frighten him

In addition, Vorster had an accomplice, one Petrus Leonard, who admitted hitting the deceased with an open hand, beating him on the buttocks and lower part of the back with a nylon rope

Both Vorster and Leonard were charged with murder, to which they pleaded not guilty

At some stage during the trial the State, no doubt for good and sufficient reason, accepted Vorster's plea of guilty of culpable homicide and Leonard's plea of guilty of assault

In finding Vorster guilty, the judge said there was no reason for any person to take the law into his own hands and that Vorster had taken the life of a fellow being by the deliberate use of violence He found that Vorster had assaulted the deceased in the manner stated above, had inspired his friend, Leonard, to assault him and had authorised or misled his farm labourers to tackle the deceased "cruelly and mercilessly"

Stopping there for a moment, one would have thought that, if ever a case cried out for a term of imprisonment to be imposed on Vorster, this was one The judge quite correctly said the court had to form an overview of the case and was not out to destroy a person

He found certain mitigating features, namely Vorster's youth, that it was his first offence, that 44 labourers were dependent on Vorster for a job, a black neighbour had given evidence of Vorster's good relationship with him, and that there had been tension experienced by Vorster and his wife for the past year, and that he had received treatment for a drinking problem

The judge also took into account that, to a certain extent, the "spark in the powder barrel" should be laid at the door of the deceased because, if the latter had listened and not switched on the tractor, the incident would never have happened

He, the judge, agreed with the defence that a sentence should be found to keep Vorster out of prison and he rejected the State's plea that, if Vorster were not imprisoned, it would create the view that the court had been lenient in a serious case which the community was watching with interest

Mr Justice Strydom said he did not believe that the community's desire for justice and order meant that Vorster should go to prison If by community the judge was referring to the farming community and the people of Louis Trichardt, he was apparently correct. The Vorster family had been inundated with messages of support from the people of Louis Trichardt

In R v Karg 1961(1) SALR 231 at 234/5 that eminent judge, Mr Justice Schreiner, in delivering the judgment of the Court of Appeal, agreed with the view expressed by the trial judge in that case that, "while the harm to the individual had to be borne in mind, the interests of the community had to be taken into account as well"

The question remains, however, whether the interests of the community, or rather the community's desire for justice, had reference only to the community in Louis Trichardt and its environs, or whether it should not have had regard to the interests of a much wider community, particularly in these troublesome days

4/12/88 (252)

Sentence

What was the sentence imposed by the judge on Vorster for this killing of the farm labourer? It was A fine of R3 000, a sentence of five years' imprisonment, the whole of which was to be suspended upon the usual conditions, and in addition, Vorster was ordered to pay the princely sum of R130 per month for five years to the deceased's widow Leonard was fined R500 or three months' imprisonment

I happen to be the senior silk at the South African Bar and, in addition, I have had some judicial experience as a trial judge for a short period in Southern Rhodesia and later as a member and subsequently President of the Courts of Appeal of Botswana, Lesotho and Swaziland for many years

I think I can claim not to be entirely without experience as an advocate who has appeared in criminal cases That being so, I fully realise that, as has frequently been stated, one of the most difficult tasks facing a judge is the imposition of an appropriate sentence for a crime that has been committed.

I happened to discuss the Vorster sentence with a colleague of mine and he drew my attention to a case referred to in an appendix to Wessels, **History of the Roman-Dutch Law**

This appendix consists of a copy of the record (translated from Dutch into English) of the case R v **Gebhardt**, decided in the Cape Colony in September 1822 (not 1922 and not 1982), the facts of which bear at least some similarity to those in Vorster's case, decided in the Transvaal in November 1988 The accused, William Gebhardt, was charged with the murder of a slave, Joris van Mosambiek, the property of his father

It was alleged that as a result of the "grievous ill-treatment of a slave" by the accused the slave had died

Apparently the slave had been lazy in his work of digging in the vineyard of the accused's father, he had been urged to dig faster but failed to do so and was, therefore, "chastised" in a most brutal fashion by the accused and by other slaves at the instance of the accused

In addition (Vorster did not do this) Gebhardt literally caused salt and vinegar to be rubbed into the wounds caused by whipping of the slave

Gebhardt's trial came before "the Honourable the Chief Justice Dr J A Truter, Knight and with him the Honourable the Councillors of Justice for the Settlement of the Cape of Good Hope and places under its jurisdiction"

The opening remarks of counsel for the prosecution, Dr J Lind, made it clear that he believed Gebhardt should be treated severely as a warning to others, as the ill-treatment of slaves was becoming widespread

It is, I think, not inappropriate to quote the opening remarks of counsel for the prosecution, Dr J J Lind He said

Pitiable

"The crime which is now being investigated by this Court is one which has been perpetrated so often recently that the welfare of this colony demands that it should be severely punished in order to serve as a warning that one cannot ruthlessly and with impunity take the life of a slave and fellow-being The condition of these people is already pitiable enough Is it then to be rendered still worse by ill-treatment and brutality on the part of those placed over them, so that they are really treated as if on a par with brute animals"

The accused was defended by Advocate Cloete who in effect argued that the accused should only be found guilty of culpable homicide and not murder Gebhardt was, however, found guilty of murder and sentenced to death by hanging

I am far from suggesting that, even if Vorster had been found guilty of murder, that he should necessarily have been sentenced to death As he was found guilty only of culpable homicide it was, in any event, not possible to do so

It is also, I consider, not inappropriate to mention a case which is to be found in the 1927 reports of the Appellate Division, **Rex v Nafte**, where an accused person who was charged with murder of a employee was found guilty of culpable homicide The accused was a farmer and there was a jury trial

The jury consisted of Bethal farmers (not all of whom are known for their humane treatment of their employees) In bringing in the verdict of guilty of culpable homicide, the jury added a recommendation to mercy on the grounds that they thought the evidence showed that there was no intention on the part of the accused to kill the deceased

What the evidence did show was that the only way in which the accused could have caused the death of the deceased was by a severe flogging, by breaking the deceased's breastbone with a stone and by kicking in two of his ribs

The trial judge, Solomon J, sentenced him to seven years' imprisonment and 10 lashes He was asked to make a special entry in terms of the Criminal Procedure Act, then in force, the grounds being that the judge in passing sentence had failed to pay any regard to the jury's finding of a recommendation to mercy

It was the judge's duty to make a special entry unless he was satisfied that the application for such entry was manifestly frivolous or absurd and would amount to an abuse of the process of the Court The judge refused to make a special entry because he considered that the application was indeed frivolous and absurd

An appeal to the Appellate Division was dismissed

Let it not be thought that I have quoted this case as support for the view that the judge in this case should have imposed lashes My own personal view is that whipping as such is an undesirable form of punishment

I have deliberately referred to the **Gebhardt and Nafte** cases, because they contrast so significantly with the sentence imposed by Mr Justice Strydom in the Vorster case and, regrettably, with other sentences of a piece imposed by other judges and magistrates for serious crimes committed by whites on blacks

Disrepute

There is not the slightest doubt that sentences of this kind have repercussions among the blacks and tend to bring the administration of justice as a whole into disrepute They exacerbate the already existing poor relations between black and white, the blacks rightly, in my opinion, inevitably regarding the utterly inadequate sentences imposed as evidence of an inequitable system of justice

Lord Chancellor Maughan once described lawyers as the custodians of civilisation, and Lord McMillan said that lawyers have a great ideal, the promotion of the orderly progress of civilisation

It may be added that Lawyers for Human Rights in South Africa rightly have as one of their prime objects methods to bring about an equitable system of justice

The brutality and futility of the death penalty

Cape Times 5/12/88

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By DENNIS DAVIS, Associate Professor, Faculty of Law, University of Cape Town, and National Director, Society for the Abolition of the Death Penalty.

THE Cape Times (November 18) reported that 110 South Africans were executed this year (164 in 1987) and that there were 279 on Death Row

It is a sobering thought that South Africa has the highest rate of judicial killings in the world, Iran with 158 executions being next on the 1987 capital punishment league table!

Notwithstanding this sad fact, until the case of the Sharpeville Six there had been little public debate on the issue of capital punishment in this country

By comparison 25 people were executed in the United States in 1987 and capital punishment became a major issue in the 1988 presidential campaign

Arguments

What are the arguments for its retention? In a study published in 1984 concerning the attitudes of criminologists, sociologists and lawyers to the death penalty in South Africa the three reasons cited for its retention were that

1 The death penalty has a unique deterrent effect

2 It prevents society from taking the law into its own hands

3 It protects society against serious crime

In so far as the deterrence argument is concerned, only one study has ever claimed that executing those convicted of crimes acts as a deterrent against future commission of crime

Even this study — by Isaac Ehrlich in 1975 — has been thoroughly discredited The United States Supreme Court majority has called it "inconclusive" Justice Marshall cited studies calling it "defective" and "unreliable" Laurence Klein, president of the American Economic Association, found Ehrlich's mathematical models to be flawed and his deterrent effect an illusion Hence the overwhelming majority of reputable criminologists argue that no evidence supports the claim that the death penalty is a deterrent

Brutalising

There is, however, evidence suggesting just the opposite — that the death penalty promotes killing

Criminologist William Bowers found in 1984 that executions have a brutalising effect, that there is a rise in homicides following executions

A study of some 600 executions over a 57-year period, using monthly homicide data for New York State, found a statistically significant rise of two homicides in the first month, and three homicides in the first two months, following executions

Although it has been suggested that the death penalty best satisfies society's desire for retribution, it is a brutal mode of retribution which succeeds only in creating an ever-widening circle of tragedy among the families of victims and the person executed

Not only are there profound criminological and social arguments for abolishing the death penalty but in South Africa there are important legal considerations as well In the vast majority of capital cases the accused is defended by a young, inexperienced advocate fresh out of law school, acting without the benefit of an instructing attorney It is simply not conceivable that an accused can receive the best possible defence in such circumstances and consequently an unfair onus is placed on the judicial officer to ensure that the accused's case is put in the best possible light

Can anyone suggest that an accused represented by an advocate fresh out of law school will have as good a chance of acquittal as one represented by Sydney Kentridge SC?

Not reduced

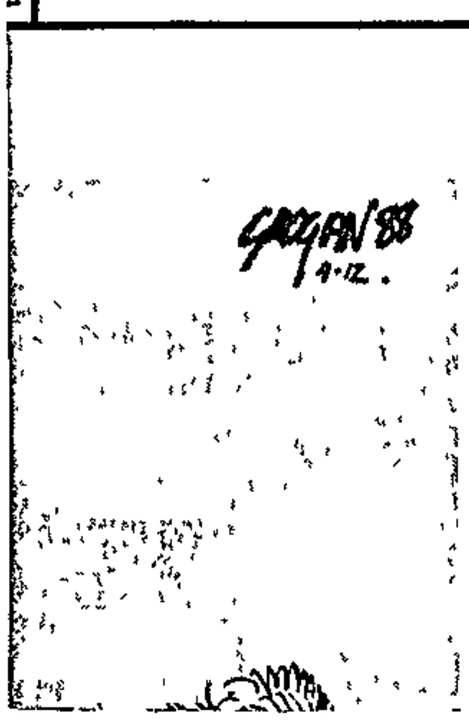
Although the quality of legal representation differs in all cases, both civil and criminal, the fact remains that the quality of legal representation is of the greatest importance when a person's life is at stake

We have not reduced crime rates by executing well over 100 people every year, but as we execute people not only for murder but for crimes such as treason, child stealing, abduction, rape, robbery or attempted robbery with aggravating circumstances, and crimes in terms of the Internal Security Act, the very administration of justice is called in question, only adding to the image of South Africa as a brutal society

The reprieve by the State President of the Sharpeville Six is undoubtedly a triumph for both national and international protest Yet how many people are executed who have not had the benefit of such widespread protest? The arbitrary nature of the reprieve is itself a powerful argument for the abolition of the entire system of capital punishment

Those who maintain that the death penalty should be retained might well ponder the words of US Supreme Court Justice Thurgood Marshall in the 1972 Furman v Georgia case

"The death penalty would offend the sensibilities of the American people if they knew that it would be no more effective a deterrent than life imprisonment, that most murderers who have been released from prison become law abiding, that the death penalty itself may stimulate criminal activity, that it is imposed discriminatorily, that there is evidence that innocent persons have been executed, and that the death penalty wreaks havoc on the criminal justice system."



LATE EDITION

Death penalty examined

By Deborah Smith, Pretoria Bureau

If it could be shown that the death penalty was of an arbitary nature there would be a very strong case for the abolition of the death sentence, according to Professor Dennis Davis, the National Director of the Society for the Abolition of the Death Penalty.

Professor Davis said his society was investigating the extent to which the personality of the presiding officer influenced the sentence handed down.

An Appeal Court judge, Mr Justice Botha, referred scathingly last week to a death sentence passed by Mr Justice Braam Lategan as so shockingly inappropriate that it flabbergasted him.

He reduced the death sentence to three years imprisonment and set aside another sentence of 10 years. He also commented on a previous occasion when the same judge was criticised by the Appeal Court.

Professor Davis said if there were major discrepancies in death penalty sentencing practices, it presented a strong case for the abolition of the system.

The society was investigating whether the crucial decision depended on who was the presiding officer.

Before reaching a conclusion it would have to study to what extent the judicial officer was a variable in the process of law, he said.

Professor Davis said the Appelate Division's rebuke of Mr Justice Lategan had been the strongest rebuke of a presiding officer he had heard. If anyone else had said the same, that person would been charged with contempt of court.

ng a golfer in a million

Two die in

Political court cases - a rerun in 1989?

Sowetan 30/12/88

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FOCUS

By MANDLA NDLAZI

POLITICAL cases in 1988 detailed the grievances that sparked unrest and almost all chronicled what actually happened, raising questions on whether the same cycle will not be repeated in 1989

Such cases filled the country's courts which echoed with evidence of the police, the defence and State witnesses who testified under oath about what allegedly caused the unrest and what ensued

The Black Local Authorities Act, the tricameral parliament, rent increases inferior education and poor living conditions, were some of the grievances that sparked the unrest in the past years

This was confirmed by witnesses who gave evidence at these cases, and seemingly the cycle will be repeated, taking into account the daily occurrences of the incidents of violence

These cases came as no surprise, after vigorous police activity Hundreds of people and the youth in particular, were arrested

Some of the cases were completed late last year (1987) and early this year (1988) Scores of the accused in courts throughout the country were sentenced to death and the others to long and short prison terms Some were acquitted and the others had charges against them withdrawn

Delmas trial

The finalised cases included that of the eight young men from Alexandra township and the "Delmas" trial this month Sister Barnard Ncube of Kagiso township and her co accused had charges against them withdrawn after they had been held for months

While these cases were being heard in the courts sporadic incidents of fresh violence were reported by police in several parts of the country thus showing a repetition of what happened in the past

And with the spate of such unrest related incidents occurring almost everyday, it does not seem there will be an end to court cases until a solution to the country's problems has been found

Unrest

According to security regulations, the definition of unrest is "any restricted gathering, and physical attack by a group of persons on a security force or on a member of a security force or on a member of a local authority or the house or family of a member of a security force or local authority or any conduct which constitutes sedition public violence or a contravention of the Intimidation Act '

The regulation relates to what sparked the unrest and was created by the Government to forbid a repetition yet nothing seems to have come from the authorities in addressing the causes of the unrest

The recent killing and wounding of members of the South African Police and the municipal police in Soweto and other parts of the country by attackers using AK47 assault rifle fire indicate that regulation of this nature do not help to resolve the situation

Evidence

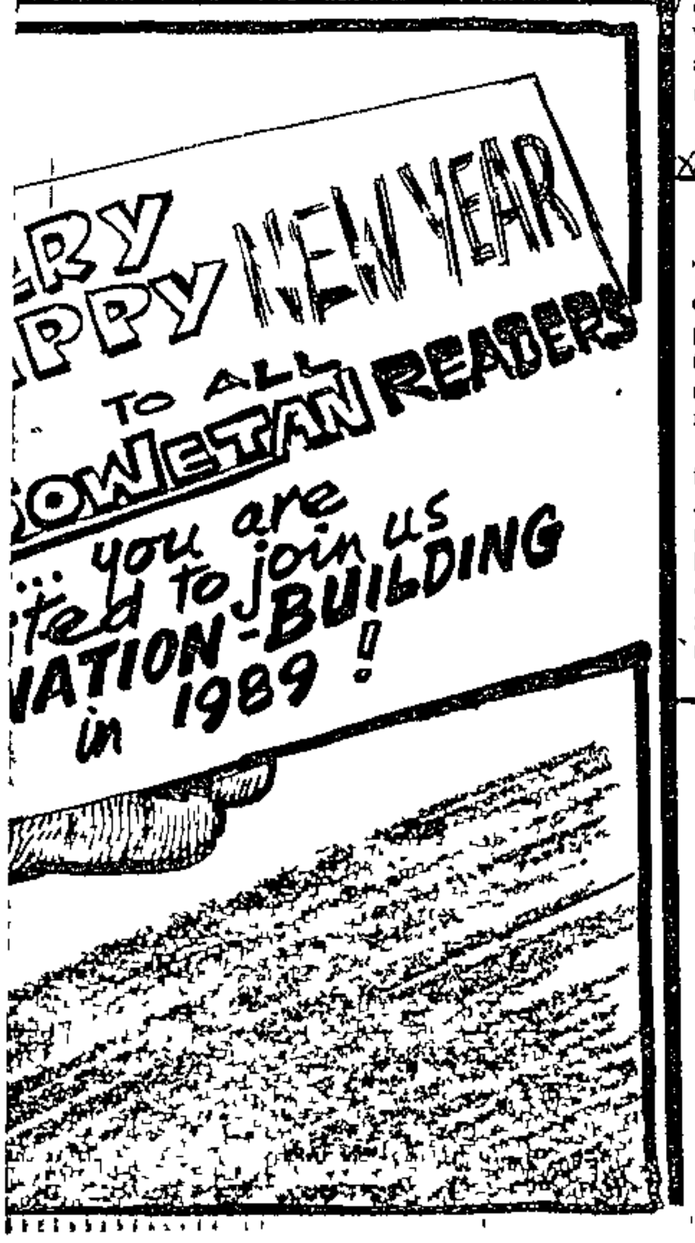
In his evidence in mitigation of sentence for the "Delmas' eleven Mr Sam Motsuenyane president of Nafcoc said "the violence took place against a backdrop of increasing tensions against the creation of local authorities and the tricameral parliament which we did not really accept "

MR SAM Motsuenyane

He said he did not support the ANC's violence but added "I believe we applaud most of these men as heroes in my community because they are working for change that we believe must take place

Lawyers for Human Rights director Mr Peter Motlhe said the crux of the evidence led by the defence in mitigation is that the UDF and in particular the Delmas treatists should be released to society to make a contribution to efforts aimed at reaching a peaceful resolution of the country's problems

SISTER NCUBE



The Media Council

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The address is The Conciliator/Registrar, SA Media Council, P O Box 5222, Cape Town 8000 Telephone (021) 461-7317 Inquiries are welcomed

Political comment in this issue by Aggrey Klaaste and Sam Mabe Sub editing, headlines and posters by Sydney Matlhaku All of 61 Commando Road, Industria West, Johannesburg

• Write to the Editor at PO Box 6663 Johannesburg 2000 Nom de-plumes can be used but full names and addresses should be supplied or the letter will not be published

The year SA's political trials went international

Star 30/12/88

252

BY JO-ANNE COLLINGE

Many of the political trials held in South Africa in 1988 were the focus of unprecedented international interest

Perhaps 1988 has a greater claim to be known as the year of the political trial than many of its predecessors

The magnitude of key cases, the international attention they have commanded and the sheer volume of prosecutions for politically related matters have probably been unparallelled in any other year Not for a quarter century has there been a South African trial of such political significance as the Delmas treason trial which came to an end just weeks ago

In effect, the largest extra parliamentary organisation within the country — the United Democratic Front — had been placed in the dock and been found to have a revolutionary character and to be in league with the African National Congress in a plot to overthrow the State by violent means

The implications of the judgment have still to be carefully reckoned Defence lawyers, arguing for the right to appeal, suggested that the inferential links made by Mr Justice van Dijkhorst in accepting the State's treason case might not be confirmed by another court.

Whatever the ultimate outcome at Appellate level (and the judge has indicated that some form of appeal will be allowed) the water has been stirred up and left extremely murky The finding of treason against three UDF leaders has created enormous uncertainty as to where the bounds of lawful political dissent lie

It has provoked a top churchman Anglican Archbishop Desmond Tutu, who has never hesitated to condemn violence, to declare "If these men are guilty, then I too am guilty of treason"

The judgment has been sharply criticised by Western countries generally supportive of South Africa The United States, West Germany and Canada have all made it clear that they view the Delmas trial as an abuse of the legal process, as a means of dispensing with fundamental opposition to apartheid

The South African Government has reacted angrily to this criticism. But it must be aware that the Delmas convicted are likely to follow the Sharpeville Six as an international cause celebré

The State President's granting of clemency to the Sharpeville Six was read in some quarters as an acknowledgement that answers to highly charged political questions cannot be found within the bounds of the legal system

The Six, sentenced to death in 1985 for the indirect part they played in the murder of a councillor during the Vaal rent protests of 1984, became the focus of an unprecedented international campaign

The killing, born of a protest by the voteless, was an improbable start to a long sequence of events in which powerful international forces aligned themselves with the Six and made it almost inevitable that Pretoria would seek an accommodation over the heads of its highest judges

The Six were but the most prominent of the scores of Death Row inmates convicted for murders committed in times of intense political conflict

While executions mounted steadily throughout 1988, standing at 117 by the end of the year, the "politicals" have, by and large, remained in a state of suspension

The use of the death penalty — its frequent use by international standards — has come increasingly under attack The abolition of the death penalty, long ignored locally, has in 1988 again found a prominent place on the human rights agenda.

The presence of some 60 "politicals" among the 260-odd people on Death Row in Pretoria Central Prison (there are about 50 more Death Row prisoners elsewhere in the country, according to the Maritzburg Agency for Christian Social Awareness) has undoubtedly played a part in the renewed concern about capital punishment.

While most campaigners against the death penalty have propounded a blanket abolitionist view, many reserve a special plea or an added vehemence, for the "politicals" whose crimes are seen to arise from factors well beyond their making

Among the "politicals" on Death Row are convicted ANC men Mthethelelt Mncube and Mzondeli Nondula, convicted in a Messina court on nine counts of murder

Several significant trials of ANC and Pan Africanist Congress members concluded in 1988, among them that of ANC men Ebrahim Ismail Ebrahim, Acton Mandla Maseko and Simon Dladla Ebrahim and Maseko were convicted of treason, Dladla of terrorism. They have still to be sentenced

Ebrahim came to trial as a result of being kidnapped at gunpoint from his Swaziland home and handed to the security police in Pretoria The State allegation that he was the chairman of the Swaziland-based Regional Political Military Committee of the ANC — and therefore probably the highest-ranking ANC man to stand in the dock since the Rivonia trial — was not proved.

But the judge accepted that he had played a role in relation to both political and military affairs of the ANC.

Evidence of the sheer volume of political trials arising in 1988 has been suggested by information gathered by the Human Rights Commission

In October the HRC compiled a list of about 260 people either sentenced to jail or still on trial for offences under security/emergency legislation or for politically motivated crimes, often alleged to involve violence

Minor offences such as possessing banned literature or attending an illegal gathering have not been included in this count Neither have the 204 Bophuthatswana residents charged with treason as a result of the abortive coup in the homeland

The figure of 260 jailed or tried in the second half of this year may be contrasted with the total number of people in jail in 1987 for security offences — a figure that stood at 299 and represented many years' accumulation of political prisoners

New airline bomb detector outsmarts x-rays

By JOSEF HEBERT

An American company has developed a device that is claimed to have a 95 percent success rate in finding all types of explosives hidden in luggage by using a unique method of detection

WASHINGTON — While x-ray machines are severely limited in their ability to detect modern explosives, researchers say they have developed a device that can detect bombs in luggage with uncanny regularity

But no airline has ordered one of the R2,4 million devices, and with the exception of two prototype machines used in a year-long test programme in San Francisco and Los Angeles, no airports have put the machine into operation

The disclosure on Wednesday that a bomb detonated aboard a Pan Am jumbo jet last week over Scotland, killing all 259 people aboard is likely to spur interest in the device.

The machine is a thermal neutron analysis device, or TNA, and is about twice the size of an airport x-ray machine During the year-long test, under a contract from the Federal Aviation Administration (FAA), it demonstrated a 95 percent detection rate with few false alarms, the agency says

The FAA recently ordered five more TNAs and plans to put them into other United States airports next year

"We are now in the production phase The research and development is over," says Mr Hadi Bozorgmanesh, a vice-president for Science Applications International Corporation of San Diego, the developer of the machine

He says the five machines will be used to monitor baggage checked on regularly scheduled flights

Once the FAA and airlines are convinced of the reliability of the machines, the agency is likely to require the devices be installed at certain US airports But that is expected to be several years away

Mr Bozorgmanesh says his company has also had inquiries from a number of foreign governments, including Britain, Japan and Italy

"But none of them has put in orders"

Mr Bozorgmanesh is confident the machine can detect a wide variety of explosives, even the plastic type of explosive that is believed to have been smuggled aboard the Pan Am airliner in a piece of checked luggage

Security officials use the conventional x-ray machines at airport screening points to detect metal parts or wiring that might resemble a bomb But there are many explosives that can be shaped in a variety of innocent-looking forms, and they are so powerful that a few kilograms can rip an airliner apart.

However, the TNA machine does not look for certain sizes or shapes It relies instead on the fact that all explosives contain large and concentrated amounts of nitrogen

According to the developer of the TNA, the machine bombards a piece of luggage with neutrons, which pass through all types of material — even lead — without a significant reaction But the nitrogen in explosives absorbs the neutrons and immediately gives off gamma radiation

This radiation gives the luggage a unique signature that can be detected by the machine

According to the FAA, the device is capable of scanning a piece of luggage in six seconds and can be adapted for use with a conveyor system that could handle large amounts of baggage in relatively short periods of time with a low rate of false alarms

"You could do an entire Boeing 747 in a half hour or so," Mr Bozorgmanesh says — Associated Press

Dutch police used metal dectectors to check everyone, including this child, at a Kurdish new year celebration in Zaandam, near Amsterdam, at the weekend Six Kurds were shot and wounded earlier this month during similar celebrations in the eastern Dutch city of Deventer

CLAIM

Appeal set for jailed ANC spies

So Weekan 30/12/88

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Matshwenyego Daniel Mokgabudi (31) of Atteridgeville and Tshifango Shadrack Rabuli (35) of Soshanguve, were each sentenced to 36 years and 34 years imprisonment respectively in the Pretoria Regional Court on December 3 last year

Their attorney, Mr Sakkie Maboa, yesterday said they had appealed against both convictions and sentences imposed on their clients, who were represented by Advocate

By MONK NKOMO

Dikgang Moseneke during the trial

The magistrate, Mr A F Snyman, ruled that the sentences of both men should run concurrently and that they each serve an effective 14 years

Mokgabudi and Rabuli were attached to the security branch in Pretoria at the time of their arrest early in 1986 They were convicted for spying for the ANC between 1980 and July 12, 1986

Both, in their official duties for the South African Police, had access to the information concerning actions of the ANC in South Africa and of how to combat these actions

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(252)

34 from E Cape on death row for 'political' crimes

By Dawn Barkhuizen

An East London man sentenced to death this month has brought to 34 the number of people on Death Row for politically related offences in the Eastern Cape, the Black Sash has found in a survey.

Of those, 23 have been convicted on the basis of common purpose.

In the most recent case, Mr Justice Grobbler referred to the Appeal Court a decision concerning the doctrine of common purpose, handed down in the case of the Sharpeville Six.

Sentencing three people to death for the necklace murder of an alleged informer, he quoted extensively from the Appeal Court judgment in which it was found that the Sharpeville Six "actively associated themselves with the actions of a mob which caused had the death of the deceased".

Mr Justice Grobbler found that Sipho Gonya (21), Phutumile Dlabathi (23) and Ringo Fairland acted in common purpose with those who burnt to death Mr Wiseman Wrwebi in Duncan Village in October 1985.

They were charged with three others — two of whom were acquitted and a third, Fukama Nkata (51), who was sentenced to 18 years' imprisonment.

Also on death row are:

● The Sterkstroom Three — Mangena Boesman (36), Msokoli Willie (23) and Mhlawubi Desemele (24) — for necklacing a teacher in October 1985.

● Nico Ledube Mnyamana (32) and Menzi Tafeni (22), convicted of acting in common purpose with a crowd who burnt to death Mr Maqanda Gxalaba in Burgersdorp in January 1986.

● Mawandile Gqeba (23), Whanto Silinga (28), Lundi Wana (21), Thembinkosi Pressfeet (32), Mzwandile Mninzi (27) and Monde Tingwe (24) were sentenced to death for the murder of Miss Nosipho Zamelain Queenstown in 1985. The six were convicted guilty on the basis of common purpose

● The Stutterheim case — Mxolisi Malgas (40), Michael Mambukwe (31) and Lulamile Maneli (31) were sentenced to death for the murder of three women in Stutterheim in December 1985. The three men were found guilty on the basis of common purpose.

● Abraham Keyo (23) from Kirkwood was sentenced to death after Mrs Elizabeth Klaas and her grandchildren died when their house was torched in April 1985.

● Mtutuzeli Ngqandu (24) was sentenced to death for the necklace murder of Detective Constable Lungile Manene in Port Elizabeth in September 1985.

● The Whittlesea Case — Basayi Nxaleko Maqoko (34) and Zwelinkosi Mjo (29) were sentenced in the Bisho Supreme Court, Ciskei, to hang for their role in the murder of Mr Joseph Sebatana in February 1986. Maqoko, a blind and uneducated man, was found to be the one who orchestrated the events.

● The Addo Four — Similo Lennox Wonci (23), Mziwoxolo Makeleni (24), Ndumiso Siphenuka (28) and Makwezana Menze (43) — were granted a stay of execution to allow one of them to petition the State President. They were found guilty of murdering an elderly white farmer and his wife in June 1985. They were found to have acted in common purpose.

● The Uitenhage Four — Mtheteleli Lucas (25), Tozamile Mooi (27), Gilindoda Gxekwa (25) and Vuyani Jacobs (21) — were among 17 Uitenhage residents tried for the murder of an alleged informer in Uitenhage in October 1985. They were found guilty on the basis of common purpose and sentenced to death.

● The Hanover Four — Mxolisi Ncaphayi, Vusumzi Jack, Samson Booysen and Bennet Sonamzi — were found to have taken part in the stoning to death of Mr Albert Nkumbi in December 1985.

● Xolani Moses Stuurman (25) was sentenced to death for his part in the necklace murder of an alleged informer in Uitenhage in December 1985.

Lawyers investigate rumours of treason case

Star 28/12/88

By Dawn Barkhuizen

Eastern Cape human-rights lawyers are trying to establish whether about 30 United Democratic Front detainees in Port Elizabeth are to be charged with treason

The lawyers are seeking to establish whether a detained journalist, Mr Brian Sokutu (28), is to appear as a State witness if the trial takes place

Lawyers for the "UDF 30" were acting on information from the Attorney-General's Office that the State was preparing a case against their clients, who were being held at Port Elizabeth's St Albans Prison, a Port Elizabeth attorney said.

She said lawyers had sent letters to the Attorney-General asking whether their clients were to be charged with treason

APPEALS

Among those in detention are UDF Eastern Cape president Mr Henry Fazzie and Port Elizabeth Youth Congress member Mr Mkuseli Jack

Mr Sokutu's lawyer said her client had been asked two weeks ago to a sign a sworn statement about a report he wrote two years ago during a memorial service for the former general secretary of the South African Communist Party, Mr Moses Mabhida, at the Dan Qeqe Stadium in New Brighton

Mr Sokutu has been in detention since June 16 1986 There have been several appeals for his release

Star 28/12/88 (252)

Man was saved from gallows by a simple word

By Dawn Barkhuizen

The difference in understanding of the Xhosa word for "we" is what saved Thembile Lubelwana from the gallows, according to a Black Sash survey on people from the Eastern Cape on Death Row

Thembile (24) was given the death sentence in February 1987 by Mr Justice van Coller for burning to death a Port Alfred resident, Mr Tabo Njingana in April 1986 Thembile and five others were charged

He spent 19 months on Death Row, but in September 1988 the Appeal Court in Bloemfontein overturned his conviction and sentence and he was freed

The Black Sash submits that this case gives weight to the campaign for the abolition of the death penalty as it appears from the judgment handed down in the Appeal Court that a matter of semantics saved Thembile's life

The Black Sash presents the facts established during the trial as being the following

On the evening of April 7 1986 a group of men fetched Mr Njingana from his house and took him, with his hands tied behind his back, to a dam where they hit him with knobkerries, threw clothes on to him, doused them with petrol and set them alight Mr Njingana jumped up and ran away, but was brought back and set alight again

He died later from his burns

The trial court found that although Thembile was not one of the leaders and it was not clear what his actual role was, he was one of the group present and associated himself wholly with the events

The finding was based wholly on a statement Thembile made to a magistrate He said two boys had woken him up and told him to go with them

He said "we" collected clothes from various houses, "we" took a certain man out of a house and tied his hands and "we" threw clothes over him and set him alight The trial court was of the opinion that the use of "we" in the statement indicated Thembile had associated himself with the murder.

The Appeal Court reached another conclusion because the little direct evidence there was excluded Thembile from being one of the direct participants and the word "we" was in question The official interpreter who translated the statement made to the magistrate told the Appeal Court the word "we" did not necessarily mean that the accused had participated or agreed with the events

The Appeal Court therefore concluded that the use of the word "we" in his statement did not necessarily indicate association with the murder or assault As a result his conviction and sentence were set aside

C/Press 18/12/88 (252)

The erosion of human rights

CP Correspondent

FORTY years after the signing of the Universal Declaration of Human Rights – to which South Africa is not a signatory – SA has experienced an increasing erosion of human rights

Judged against three articles of the declaration, SA's open defiance of the recognition of a person's right to liberty – the cornerstone of any democracy – comes to the fore

Last Saturday was Human Rights Day and meetings were held at several venues across the country by anti-apartheid leaders. Following is an analysis of South Africa's human rights record.

Article three of the declaration cites the "right to life, liberty and the security of a person", and article nine that subjection to 'arbitrary arrest, detention or exile" should be non-existent

Article 10 entitles every person "to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charges against him"

The Human Rights Commission, based in Johannesburg, said in a paper released this week that the over 73 000 detainees – "certainly an underestimate" – since 1960, was a damning example of the SA government's attempt to stifle political opposition

The HRC said periods of major resistance and unrest had produced a rich crop of detentions, "as after Sharpeville (11 727) and during and after the 1976 Soweto uprisings (3 474)

But, it went on to say, a totally new dimension had been perceived over the last four years starting from the time of the tricameral elections in August 1984 During this period an estimated 51 000 detentions took place, over 70 percent of all detentions since 1960

"Clearly, the emphasis has shifted from the detention of the political leadership and outspoken critics of apartheid, to include community members at all levels "

Turning to the "way out of detention", the HRC noted that records kept since 1981 revealed that about 75 to 80 percent of all detentions ended with detainees getting releases without any charge

"The detainee is one day simply advised that he or she is free to go This can happen within a short time, but six months is common and, until recently, about two years was the longest "

Now, however, said the HRC, this record was being exceeded, with many emergency detainees being held for over 28 months Re-detention was also common, with some persons having been held as many as 10 times

The HRC added that those released were frequently reported to be accompanied by threats not to resume political activity, or by pressure to become informers,

"Among those who are released without any charge, an increasing number are served with banning or restriction orders

"This," the HRC said, "can be said to extend detention beyond the prison walls "

According to the HRC, the other 20 to 25 percent of detainees were charged with various offences ranging from treason, terrorism or subversion, down to attending illegal gatherings or possession of banned literature In most cases, however, the HRC added, charges were eventually withdrawn or the accused acquitted, leaving only two to four percent of detainees who got convicted

"Escape is a very infrequent occurrence Records show that there have been about 30 reported or known escapes since 1967, with only one reported recapture

"Question marks hang over the genuineness of some of the reported 'escapes', where detainees have disappeared without trace "

Still on the "way out of detention", the HRC said present records showed that 67 detainees did not survive detention

"If one is to believe the inquest verdicts, nearly half of these chose the way out of detention by committing suicide "–Ano

'Entire society harmed by practising oppression'

By HAPPY ZONDI

SOCIETIES which practise systematic oppression harm both the oppressed and those who conduct and condone the oppression equally, US ambassador to South Africa, Edward Perkins, told a recent human rights gathering

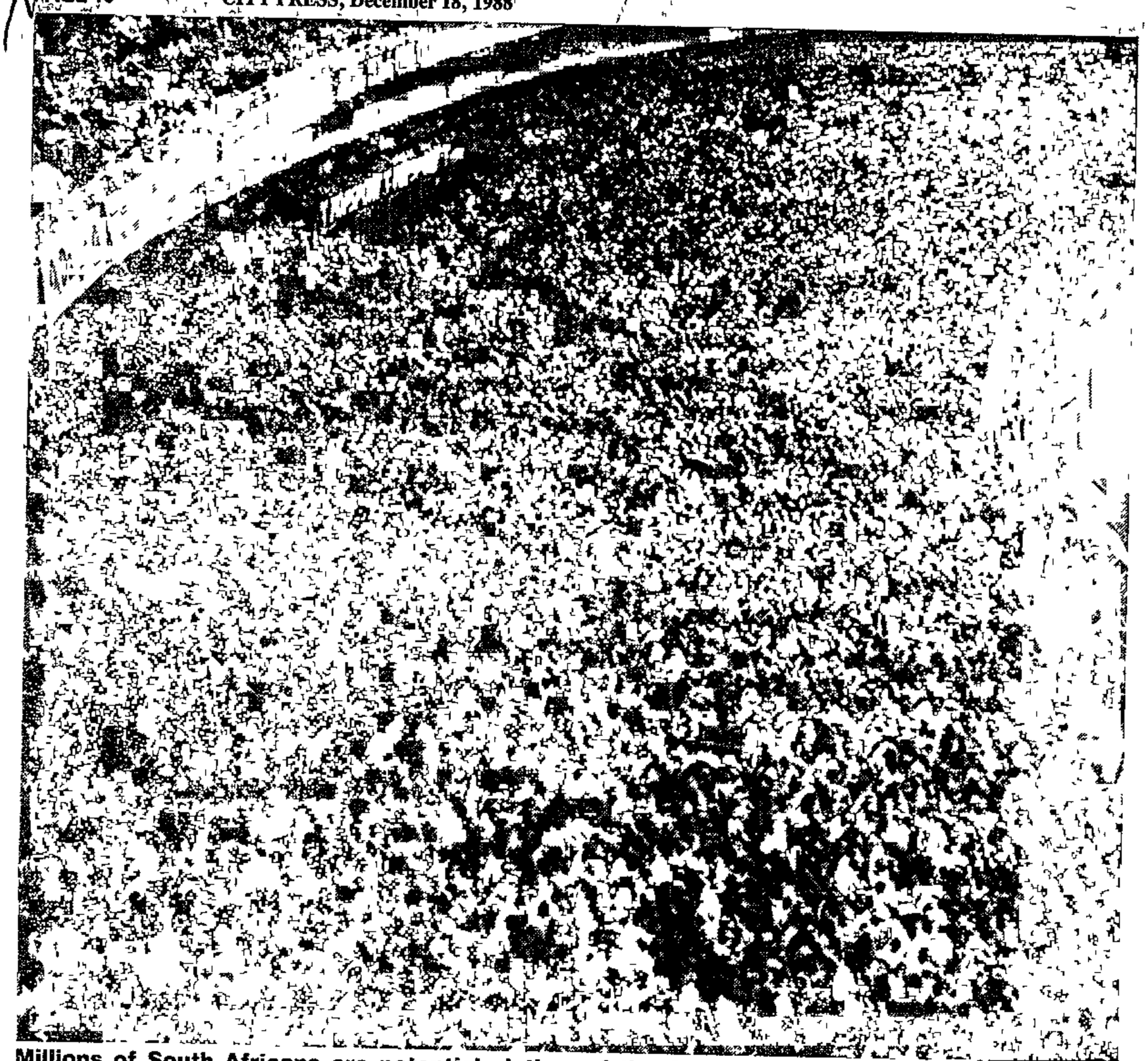
"By denying humanity to others – which is what we do when we deny people human rights – we degrade and limit ourselves," he said

"Human beings, by supporting the humanity of others, were also freeing their potential humanity

"Keeping the public eye on efforts to restrict the rights of even the least popular or the least powerful, help society in resisting the comfortable slide into repression," Perkins said

"All segregation rules are unjust because segregation distorts the soul and damages the personality

"I have been in your country long enough to understand that there is no easy comparison between our civil rights struggle and the issues South Africa will face," said Perkins



Millions of South Africans are potential victims of the SA government's open defiance of the recognition of a person's right to liberty.

The Delmas 11 seek leave to appeal

(252)

18/2/88 By SOL MORATHI

THE 11 convicted Delmas treason trialists have asked the Pretoria Supreme Court for general leave to appeal

Defence Counsel Arthur Chaskalson said the judgment was so complex that another court might take a different view

The judgment, according to Chaskalson, was based on circumstantial evidence in many instances

Another defence advocate, George Bizos, SC, submitted that several State witnesses had given false evidence during the three-and-a-half-year-long trial.

He made particular reference to State witnesses IC 10 and a certain J Masinya The State had ignored the fact that they had committed perjury, he said

Bizos said the false evidence given by prosecution witnesses could have a tremendous effect on the trial judgment if it was successfully considered by the Appellate Division

A week ago, three leaders of the UDF and one field worker of the SACC were convicted of treason and given prison sentences ranging from six to 12 years

Of seven men convicted of terrorism in the same trial, one received a five-year prison sentence

The six other people convicted of terrorism were given five-year sentences, suspended for five years.

In pronouncing sentence, Judge Van Dijkhorst said UDF general secretary Popo Molefe, UDF publicity secretary Patrick Lekota and former UDF Transvaal secretary Moss Chikane, were part of the "conspiratorial core of the UDF"

Chikane and Molefe were each sentenced to 10 years while Lekota was given 12 years

Thomas Manthata of the SACC was sentenced to six years for his "affinity for revolutionary thoughts"

Those who were suspended on terrorism charges were Tsietsi Mphuthi, Naphtali Nkopane, Tab Tebello Ramakgula, Sekwati Mokoena, Serame Hhlanyane and Hlabeng Matlole

Gcinumuzi Malindi received a five-year jail term He is a former member of the Vaal Civic Association

Judgment reserved on Delmas trial appeals

(252) Star 16/12/88

By Jo-Anne Collinge

Judgment was reserved in Pretoria's Palace of Justice yesterday on the right of appeal of the 11 men convicted in the longest trial in South African history, the Delmas treason trial

The trial has seen four men, including three key members of the United Democratic Front, jailed for period of six to 12 years for treason Another seven men received five-year jail terms for terrorism

The defence is seeking general leave to appeal against the judgment declaring the UDF a revolutionary organisation which was bent on creating a revolutionary climate and which had a core of leaders who functioned as an internal wing of the African National Congress

Mr Justice Van Dijkhorst indicated early this week that his initial inclination was to grant leave to appeal on selective areas of the mammoth record But he spent two days hearing argument from both sides to the contrary.

The State is opposed to the granting of leave to appeal in almost all areas of the complex case

The defence has also submitted that there have been irregularities in the trial of such a magnitude that they should be considered by the Appeal Court by way of special entry

Chief among these irregularities, the defence submits, was Mr Justice Van Dijkhorst's decision to dismiss one of his assessors, Professor W A Joubert, in early 1987

It was argued by Mr George Bizos, SC, that the six who received suspended five-year sentences should be given leave to appeal against them.

Mr Bizos said there were precedents for sentences to be suspended on condition that convicted persons should not engage in specified unlawful acts, or that they should perform acts of benefit to the community

But, he argued, he could find no precedent for sentences being suspended subject to the accused refraining from entirely lawful acts

Mr Justice Van Dijkhorst said he had made it clear that he believed the six should go to jail But the suspension of sentence had been motivated by the desire to reunite them with their families, and conditions had been imposed "to keep them out of mischief"

DEMONSTRATIONS

Among the conditions are that, for a period of two years, they must not attend public meetings, take part at a senior level in the affairs of youth, civic and political organisations, and must refrain from participating in demonstrations and protests

"Your lordship considers political acitivities to be mischief," Mr Bizos responded.

The judge denied this, saying that "in the political activities, they come to mischief"

The State contends that in very few areas of the case does the defence stand a chance of obtaining a different finding from another court and therefore should not be granted leave to appeal on these matters

Pik lashes out at Canada's Clark

Foreign Minister Pik Botha yesterday accused Canada of racism and described criticism of the Delmas treason trial sentences by the Canadian Secretary of State for External Affairs, Mr Joe Clark, as "arrogant and meddlesome interference". Star 16/12/88

The South African Government found it objectionable that the Canadian government should interfere in such a manifestly political manner in a purely judicial matter, Mr Botha said of Mr Clark's comments.

Mr Botha said the trial was dealt with "exclusively within the purview of a judicial system completely equal to that in Canada, with a long-established tradition of impartiality, independence and integrity. (19)

"The arrogant and meddlesome interference of the Canadian government in this matter is rejected as unwarranted and thoroughly inappropriate."

South Africa's ambassador in Ottawa had been instructed to convey the Government's strongest protest against "this unwarranted interference" to the Canadian government, said Mr Botha.

The ambasador had also been asked to urge the Canadian government to pay more attention to the plight of Canadian Indians, "who suffer from deprivation as a result of the Canadian government's racist attitude towards them", said Mr Botha — Sapa. (252)

Defence believes judgment can be overturned

Delmas trial judge dismisses document

Star 15/12/88 (252)

By Jo-Anne Collinge

There was a dramatic sequel to the Delmas treason trial in Pretoria yesterday when Mr Justice van Dijkhorst again refused to consider a document by the assessor he dismissed 20 months ago — an act which caused the accused to apply to have the trial quashed on grounds of the judge's partiality.

The application for the quashing of the trial in April 1987 was unsuccessful and certain statements by the dismissed assessor, Professor J A Joubert, were ruled inadmissible.

Defence counsel made it clear yesterday that they believe the judgment in the longest trial in South African history could be overturned by the Appeal Court on the basis of the invalidity of Professor Joubert's dismissal

The defence indicated in papers to the court that they believed they should be granted leave to make a special entry to the Appellate Division to argue

- That the judge wrongly construed his powers under the Criminal Procedure Act in dismissing Professor Joubert and that the trial continued before an improperly constituted court
- That the refusal of Mr Justice van Dijkhorst to admit Professor Joubert's statement hampered the defence's earlier attempt to quash the trial.

The judgment saw three UDF leaders, Popo Molefe, Terror Lekota and Moss Chikane, convicted of treason and the UDF declared a revolutionary organisation Professor Joubert was asked to recuse himself (and refused to do so voluntarily) after it was disclosed that he had signed the UDF's One Million Signature Campaign petition against the tricameral Parliament

The UDF three were sentenced to terms ranging from 10 to 12 years. Church worker Tom Manthata received six years for treason and the remainder of the 11 convicted received five years each for terrorism In all but one instance the terrorism sentence was entirely suspended.

Controversial affidavit

Among the papers handed up to the judge on the special entries was Professor Joubert's controversial affidavit. Mr Justice van Dijkhorst returned this portion of the papers immediately

He stated he had made a ruling earlier that an application concerning conversations between a judge and his assessor was inadmissible

"Until the Appellate Division decides otherwise, that ruling stands."

He added later "I am not interested in it (the Joubert document). I hand it back to you"

Mr Justice van Dijkhorst stated that admissibility could be judged on two grounds — on the general category of the document and on its contents. The Joubert document fell into an inadmissible category.

Star 15/12/88

Ashley Forbes described by judge as a 'dedicated terrorist'

ANC commander jailed for 15 years

Own Correspondent

CAPE TOWN — ANC commander Ashley Forbes was jailed yesterday for 15 years, with another 10 years suspended for five years

Mr Justice D M Williamson described him as a "dedicated terrorist"

The judge said Forbes (22) played a leading role in the activities of the armed wing of the ANC, Umkhonto We Sizwe

He received military training in Angola When he returned to South Africa, he initiated various attacks, including a limpet mine blast at a bus shelter outside the home of the State President, Mr P W Botha, three grenade attacks on the homes of policemen and a limpet mine explosion at an electrical pylon in Goodwood

ANC commissar Peter Jacobs (23) was sentenced to 14 years' jail, with 10 years suspended for five years for terrorism

The judge said he had also played an active role in Umkhonto We Sizwe when he assisted in the limpet mine attack on the pylon and threw a grenade into the home of a policeman in Mitchell's Plain on the Cape Flats

Nicklo Pedro (20), who was a contact between Forbes and ANC cells in the Peninsula, was sentenced to 14 years' jail, with 10 years suspended for five years

Nazeem Lowe (24), guilty of terrorism after admitting participating in a grenade attack on the Manenberg police station in 1985, was sentenced to 10 years, with another 10 years suspended

Explosion

Anwa Dramat (20) was jailed for 12 years for his "active role in the violence", with another 10-year sentence suspended

He attacked the home of a policeman in Bonteheuwel and caused a limpet mine explosion on the railway line near Heideveld

Clement Baadjies (20) was sentenced to 10 years, with an additional 10 years suspended for five years for his role, in a petrol-bomb attack on the home of a policeman and an attack on a bus shelter

David Fortuin (22), convicted of contravening the Internal Security Act by storing a trunk containing grenades and limpet mines, was jailed for two years, with an additional five years suspended

Jeremy Veary (25), who contravened the Internal Security Act by storing a mini-limpet mine and a grenade, was sentenced to two years' jail, with an additional five years suspended for five years

When Walter Rhoode (23), convicted of failing to report a person he suspected was a terrorist, was given a wholly suspended sentence, there were gasps from the public gallery His wife wept

Mr Justice Williamson said he had taken into account the time Rhoode had spent in custody Rhoode was sentenced to five years' jail, suspended for five years

Wayne Malgas (22), convicted of storing a grenade used in an attack on the home of a policeman, was sentenced to two years, with an additional five years suspended for five years

Collin Cairncross (22), convicted of contravening the Internal Security Act by failing to report a planned petrol-bomb attack, was sentenced to five years' jail, suspended for five years

Two women are bitten by police dogs near the Supreme Court, Cape Town, yesterday as police disperse a crowd that gathered as sentence was passed in the Forbes trial

Police dogs bite four near court

Star 15/12/88

Own Correspondent

CAPE TOWN — At least four people in the crowd which gathered near the Supreme Court where the Ashley Forbes trial was being heard were bitten by police dogs yesterday

In Long Street, a vagrant was bitten on the leg An *Argus* reporter was bitten as she walked towards the Supreme Court to cover the hearing

A bystander said he saw a man in white overalls bitten by a police dog in Dorp Street

"Fortunately, the material was thick and it did not appear as if the man's skin had been broken I saw another man being dragged around by a police dog which had grabbed hold of the canvas bag he was carrying," the bystander said

People queued outside the Supreme Court in Keerom Street from 3 am for the 80 seats in the public gallery of Court No 1

Those who could not get into the building took up positions behind police barricades in Keerom and Long streets

Police with dogs formed a cordon across Keerom Street and police photographers took pictures of people in the crowd Police ordered journalists to leave the area

A helicopter circled above Long Street and a water cannon patrolled the streets around the court

All men, including reporters, were searched as they entered the court

After the proceedings about 300 people gathered on the pavement in Dorp Street singing "Nkosi Sikelel' iAfrika", waiting for the lorry taking the prisoners to Pollsmoor Prison to emerge from the Supreme Court courtyard

But the lorry left via Leeuwen Street

(252)

120 witnesses disbelieved

DEFENCE lawyers yesterday challenged a judge's findings in the Delmas treason trial and expressed their concern that out of 126 witnesses, 120 were disbelieved — "sometimes in harsh and emotional term" — by the court.

By SOWETAN REPORTER

Mr George Bizos, SC, also submitted in the Pretoria Supreme Court that State witnesses who gave untruthful evidence were, on the other hand, merely described as "unreliable witnesses", by Mr Justice van Dijkhorst, who is sitting with an assessor

Mr Bizos and Mr Arthur Chaskalson, SC, yesterday argued for general leave to appeal against conviction and sentences imposed on eleven men, including three senior officials of the United Democratic Front, who were found guilty of treason and terrorism.

Referring to the seven members of the Vaal Civic Association who were convicted of terrorism, Mr Bizos said their conviction seemed to have been based on the trident language they used against local community councillors They also defamed and accused councillors of being dishonest, he said

"We may persuade the Appelate Division that a citizen has a right to speak out loudly about corruption", Mr Bizos told the court The allegations of corruption against councillors in the Vaal, he added, did exist Councillors were called "oppressors" and this is part and parcel of the thrust and counter-thrust of political language", the defence lawyer said

Mr Chaskalson challenged the court's findings in certain areas where it was established that the UDF and its affiliates were responsible for the flaring-up of violence He also challenged the court's ruling that the UDF and its affiliates created the revolutionary climate — an allegation that was not proved by the State, Mr Chaskalson argued He added that there was no evidence of planned violence by the UDF

"What is a revolutionary climate?", asked Mr Chaskalson, who also submitted that this climate would not been created for instance in Somerset East, where meetings were comparatively small in number and there was no breakdown of essential services

(Proceeding)

Star 15/12/88 (252)

'Judge took over State's role'

By Jo-Anne Collinge

The conduct of Mr Justice van Dijkhorst in the marathon Delmas trial was attacked by defence counsel Mr George Bizos SC, who suggested the judge had taken over the State's role in his lengthy cross-examination of witnesses and his introduction of concepts into the case

Mr Bizos argued yesterday that leave to appeal should be general rather than selective and evidence on the Vaal in 1984 should be included

Mr Bizos handed up a detailed schedule citing actions by the judge which he believed the Appeal Court might regard as improper

Among other things, said Mr Bizos, "there was a discernible difference of approach to State witnesses and defence witnesses"

Mr Bizos observed that about 120 defence witnesses had been disbelieved by the judge "sometimes in harsh and emotional terms"

He added "In contrast where State witnesses were shown to be untruthful they were merely described as unreliable"

Mr Bizos said it would be put to the Appellate Division that it was improbable that the defence "like Diogenes was unable to find an honest man or woman in the country and that the State had the prerogative of capturing them before we got to them"

He submitted that it was unacceptable that two State witnesses, former detainees, who admitted they had given statements under duress should be dismissed merely as discredited witnesses

"It is not enough to ignore the evidence," Mr Bizos said He he believed cross examination should not have been curtailed It should have been continued to establish who threatened the witnesses and how they were connected to the investigation team

Mr Arthur Chaskalson SC argued that the judge would be wrong to exclude from the appeal events of violence which had occurred in 31 areas

The finding that the UDF had been linked to violence in any one area could crucially affect the overall finding as the judgment was founded largely on inference

In addition the totality of the violence needed to be reassessed, Mr Chaskalson argued

Halting of SADF murder trial invalid

ARGUS 15/12/88

Argus Africa News Service

WINDHOEK — A Full Bench of three judges of the Supreme Court in Windhoek has declared invalid a certificate issued by President Botha halting the murder trial of four SADF soldiers.

The certificate, in terms of the Defence Act of 1957, was issued by Mr Botha acting on advice from the SADF

Four SADF soldiers — C J Harmse, F J Herps, D F Esselen and J Fernando — were all indicted for the murder in November 1985 of Mr Frans Uapota, a resident of Owambo

According to a post-mortem performed on Mr Uapota, he had a broken neck, broken ribs and other injuries after being interrogated by the four, who were on counter-insurgency operations in Owambo at the time of the killing

After a police investigation of the case in late 1985 and early 1986, the four men appeared in court on murder charges on June 24 1986.

"GOOD FAITH"

The trial was stopped three days later in terms of the certificate issued by Mr Botha, which said the men had acted in "good faith" in "combating terrorism in an operational area"

President Botha made his decision after being given a report on the incident prepared by Colonel C de Klerk of the SADF

A challenge on the validity of the State President's certificate was later mounted by the dead man's wife, Mrs Victoria Mweuhanga, and the case was heard yesterday.

Mr Justice Harold Levy, Mr Justice Chris Mouton and Mr Justice Herbert Hendler concurred in declaring the certificate invalid.

WORRYING INROADS

The court found that the issuing of such certificates made serious and worrying inroads into the discretionary powers of the Attorney-General to decide on prosecutions

Legal sources here say that the ruling will open the way for the alleged killers of Mr Uapota to stand trial, and could also set a precedent for another action pending against a State President's immunity certificate — that of six SADF officers charged with the murder of a Swapo official, Mr Immanuel Shifidi, in November 1986

Plan to save Ccawusa man

Sowetan 15/12/88

THE Commercial and Allied Workers' Union of South Africa has launched a campaign to save one of its members who is presently on death row.

The Ccawusa member is Mr William Ntombela (33), a former Nels Dairy worker who lost his appeal against the death sentence

Mr Ntombela was held responsible for the death of two people at the height of the Nels strike in 1986, according to the union

A father of two, Mr Ntombela was a shop steward at Nels when — in June 1986 — about 1 000 employees of the company went on strike in protest against low wages, the state of emergency and working conditions

The industrial action was marked by mass detention of all the approximately 1 000 workers, fatal shooting of two Nels employees, dismissal of the entire workforce and eviction of some of them from the hostels

Announcing the campaign, Ccawusa official Mr Salim Vally said the union intended to petition the authorities in a bid to halt Mr Ntombela's execution

"It now becomes vital to launch a public campaign and to spare no effort in preventing the hanging of our member," he said

(252)

State argues appeal

BY MONKI NKOMO

THE State will present its argument in the Pretoria Supreme Court today, challenging an application for leave to appeal by lawyers acting for the eleven men convicted and sentenced on charges of treason and terrorism in the Delmas treason trial last Thursday.

The Defence Counsel filed an informal leave to appeal against the conviction and sentences imposed on the eleven men who include three senior officials of the United Democratic Front

Terror Lekota, publicity secretary of the UDF was jailed for 12 years, two other UDF secretaries, Popo Molefe and Moss Chikane, were each sentenced to ten years imprisonment and Tom Manthata, former secretary of the Soweto Civic Association were jailed for six years for treason

Petros Malindi was sentenced to an effective five-year jail sentence Six other members of the Vaal Civic Association were each sentenced to five-year imprisonment suspended for five years on certain conditions, including that they may not participate in any form of public protest

The defence team led by senior counsels, George Bizos and Arthur Chaskalson submitted on Monday that general leave to appeal should be granted because the judgment was so complex and in many instances based on circumstantial evidence, that another court might take a different view.

Mr P B Jacobs SC and Mr P Fick will present the State's argument this morning

Appointment

THE Minister of Justice, Mr Kobie Coetsee, announced yesterday the appointment of Mr J J Moeth, presently deputy director-general, to succeed Mr S S van der Merwe as Director-general of the Department of Justice. (252)

Mr Moeth matriculated at the Prieksa High School in 1957 and joined the Department of Justice on January 6, 1958, at the magistrate's court, Griekwastad.

Sowetan 14/12/88

Inquest postponed

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SOWETAN REPORTERS

THE inquest into the death of student leader, Mr Caiphus Nyoka (23) was last week postponed by a Benoni magistrate to March 6, next year

The inquest was postponed after the State had asked the magistrate to be given more time to study affidavits of three witnesses who were supposed to testify yesterday

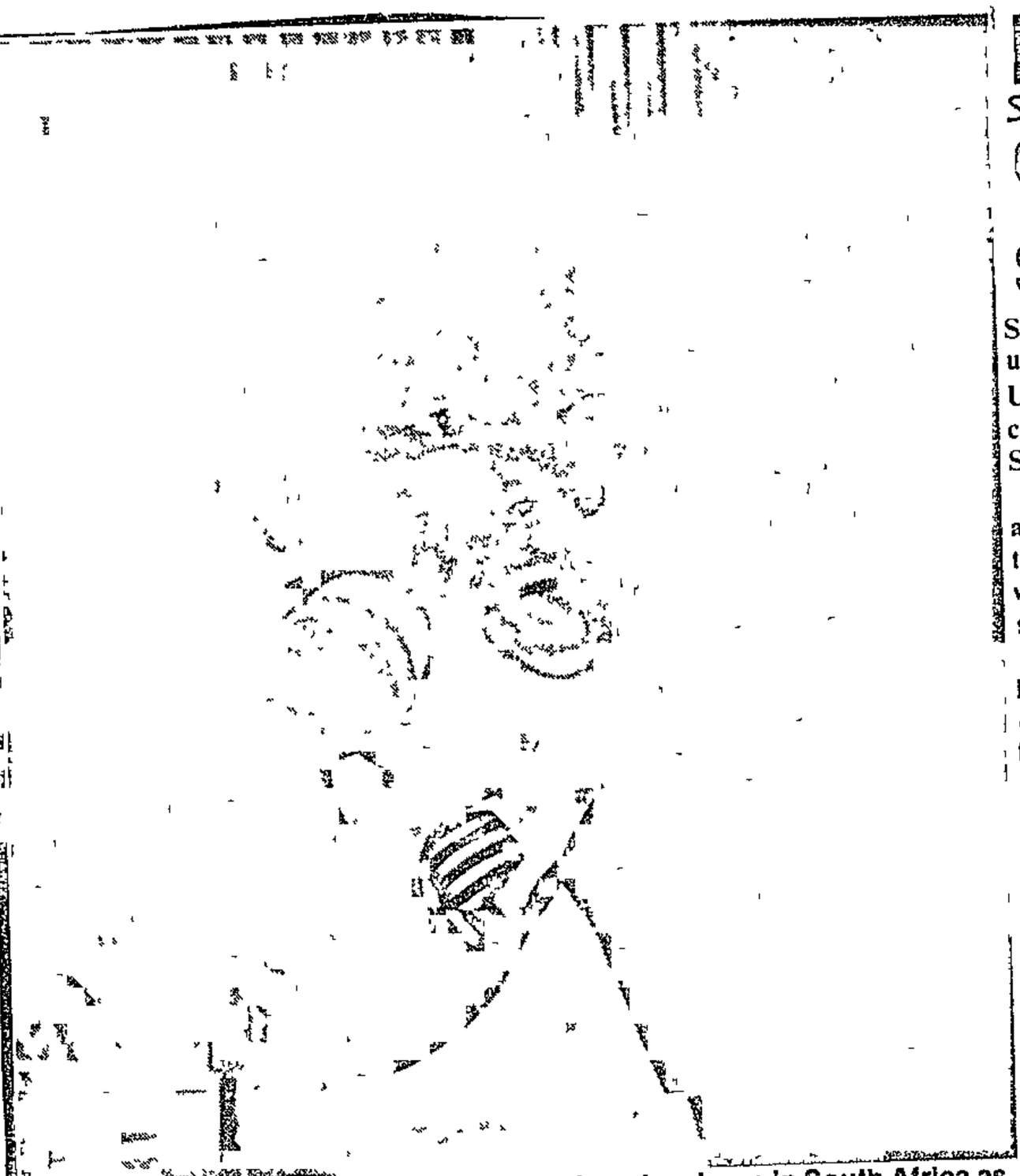
Earlier evidence before Mr J P Myburgh was that Mr Nyoka was shot dead by security police at his home in Daveyton, Benoni, on August 23 last year

The court also heard that the police had gone to Mr Nyoka's home to investigate allegations that he was in possession of "terrorist weapons"

Evidence before the court was that his family was only informed about his death two days later after he was shot Sowetan 14/12/88

At the time of his death, Mr Nyoka, a Standard 10 pupil, was the president of the SRC at Mabuya High School in Daveyton He was also a co-ordinator of the Transvaal Students Congress

The Nyoka family was represented by Advocate A J Kraut, instructed by Soman, Kamdar, Legodi and Partners



THE Rev Frank Chikane — human rights is not an issue in South Africa as Africans are treated as less than human beings.

Human rights: chiefs urge a stand for truth

Sowetan 13/12/88 (252)

SOUTH Africa's violation of human rights was put under the spotlight at the 40th anniversary of the Universal Declaration for Human Rights commemoration at the Central Methodist Church on Saturday

The audience, largely made up of lawyers and activists, was urged to campaign and to stand up for the truth and to fight the atrocities and horrendous wars which are perpetrated in a professional way and by statute laws in this country

"In this country there is no respect of either rule of law or of the fundamental freedoms enshrined in the declaration," said Mr Peter Leon, Chairman of Lawyers for Human Rights, Witwatersrand region

"What we have seen is an assault on human rights initially by statute and now, in our fifth state of emergency since 1960, by decree"

The Rev Frank Chikane, the general secretary of the South African Council of Churches, said the violation of human rights was a direct negation of Christianity, which preaches love

He attacked the "civilised, developed and Christian countries abroad" who still support South Africa while it grossly violates human rights

"The South African issue is not just to fight the violation of human rights, it is more than that as the Africans are treated less than human beings," said Mr Chikane.

SOWETAN
Daily Mirror
TUESDAY, DECEMBER 13, 1988 MORNING FINAL RSA 40c (36c + 4c GST) OUTSIDE 40c

BAIL FOR MOSES

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Sowetan 13/12/88

R35 000 set for Mayekiso, co-accused

EXCITEMENT greeted Mr Moses Mayekiso, general secretary of National Union of Metal Workers of South Africa, and his four co-accused when they were released on a total of R35 000 bail in the Rand Supreme Court yesterday

By MANDLA NDLAZI

One of the stringent bail conditions is that they may not enter or remain in Alexandra Township They were granted bail by Deputy Judge President, L Le Grange

"It's just like a dream" said Mrs Khola who spent Christmas for the last two years without her husband I am excited" said Miss Constance Hlatshwayo (26) Mr Obed Bapela's girlfriend who was released last Monday from two years detention without trial

"It seems a spirit of goodwill from the authorities," said one of the crowd of surprised spectators at the foyer of the building This was after the five men had emerged from the cells There were greetings, hugging and kissing from friends, relatives, wives and girlfriends

Mr Mayekiso (40) is out on R10 000 bail and the four others Mr Paul Tshabalala (32) Mr

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Defence in treason trial claims perjury

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Sowetan 13/12/88

SEVERAL State witnesses, some of whom were connected with the prosecution, deliberately gave false evidence to implicate the accused in the Delmas Treason Trial, defence lawyer, Mr George Bizos, SC, submitted in the Pretoria Supreme Court yesterday

Both Mr Bizos and Mr Arthur Chaskalson, SC, yesterday filed an informal application for leave to appeal against the conviction and sentences imposed on seven men, including three senior officials of the UDF, who were convicted and sentenced on charges of treason and terrorism last Thursday

Mr Bizos, referring to the members of the Vaal Civic Association who were convicted, submitted that Mr Justice van Dijkhorst, who is sitting

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Delmas treason trial

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with an assessor, had ignored the fact that State witnesses including FC10 and Masinya were untruthful witnesses who deliberately committed perjury during the trial. The false evidence was given by people "connected with the prosecution," Mr Bizos said.

He added that this fact, if successfully considered by the Appellate Division, could have "tremendous implications" against the judge's findings, especially in the case of Tom Manthata, who was jailed for six years on a charge of treason.

Bail for Moses

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Richard Mdakane (39), Mr Obed Bapela (38) and Mr Mzwanele Mayekiso (22), on R5 000 bail each

The conditions are that Mr Mayekiso and his brother will live at Nedbank Plaza in Hillbrow, Mr Tshabalala and Mr Mdakane at Ascot Road, Judith Paarl, and Mr Bapela at Bekker Street, Bellevue East

They have to report daily between hours 8 and 13 hrs at Hillbrow police station

They are not to communicate with State witnesses, attend or address any gatherings of more than ten people, conduct, attend or address any Press conference or issue Press statements

They are not to enter or remain in Alexandra Township They are not to leave the area of the Witwatersrand without the written permission of the investigating officer — Mr Victor at John Vorster Square They are to hand over their passports, if they have any, and may not apply for such documents

Mr Moses Mayekiso has been in jail for 901 days, since June 28, 1986, after he was arrested in terms of Section 29 of the Internal Security Act at Jan Smuts Airport

Mr Tshabalala has spent 693 days in jail since January 22, 1987, after he was arrested in terms of Section 50 of the Criminal Procedure Act

Mr Mdakane has been in jail for 907 says, since June 21, 1986, after he was arrested in terms of regulation 3 of the Emergency Regulations Mr Bapela has been in jail for 918 days since June 10, 1986, after he was arrested in terms of Section 29 of the Internal Security Act

Mr Mzwanele Mayekiso has spent 916 days since June 12, 1986, after he was arrested in terms of regulation three of the emergency regulations

Editor is jailed for terrorism

AN editor at Skottaville Publishers, Jaki Seroke, was sentenced to 12-years' imprisonment and his two co-accused were each sentenced to 10-years at a Springs Regional Court on Friday for terrorism and membership of the banned Pan Africanist Congress.

By SONTI MASEKO

Magistrate, Mr H Hoffman, ordered that Seroke will serve an effective 10 years as two years of the sentence — for belonging to a prohibited organisation — should run concurrently with the 10-year sentence for terrorism. The other accused are Mandla Cele (24) and Thembinkosi Khonongwe (24).

Before the sentencing began, advocate Mr Essop Patel pleaded on behalf of the three men that the magistrate should consider suspended sentences for his clients, especially in the light of similar sentences passed on some of the trialist at the Delmas treason trial

In passing sentence, Mr Hoffman accepted that Seroke, was a member of the PAC and worked in the propaganda section of it, but did not receive any military training.

He also said that though he was satisfied that Cele and Khonongwe received military training and were members of the PAC military wing, APLA, there was no evidence before the court that they committed acts of violence in the country

Mr Hoffman said it was clear that Seroke was an executive member of the PAC and not a mere soldier like Cele and Khonongwe.

He said Seroke was responsible for promoting the aims of the PAC inside the country, a thing which could do more harm than good.

"You are also responsible for transporting and carrying weapons, you brought a highly trained terrorist into the country," Mr Hoffman told Seroke.

Members of APLA, he said, were mere puppets used to commit acts of violence.

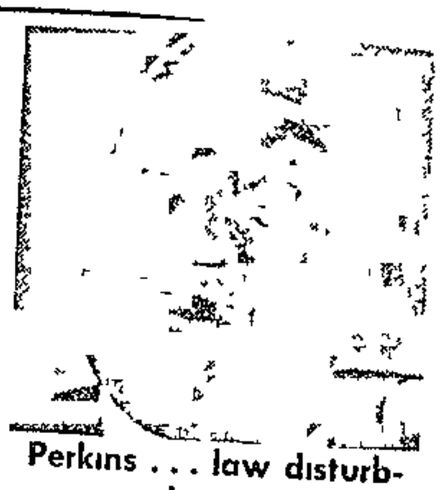
Mr Hoffman rejected the evidence of Professor Fatima Meer, a sociologist from the University of Natal, who was brought by the defence to plead in mitigation for the three men by giving a background of their social background and personal circumstances.

He said it was clear from Prof Meer's report that she was prejudiced

"To her every piece of blameworthiness lies within the South African Government and the brutality of the police," he said

SA detention one of 'worst human rights abuses known'

Star 12/12/88



Perkins . . . law disturbingly casual.

By Kaizer Nyatsumba

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The South African detention system was one of the worst kinds of human rights abuse known, United States ambassador Mr Edward Perkins said at the weekend

Addressing the Johannesburg branch of Lawyers for Human Rights, Mr Perkins said there was "something disturbingly casual" about a law which reserved for the authorities "an across-the-board right to detain anyone, usually on very little pretext, with little right of review and for an indefinite period".

Mr Perkins said many people around the world were in detention for actions or beliefs considered to be against the government of the day, and there could today be as many as 800 people in South Africa detained or jailed without charge

Apart from the institutional injustice of apartheid, security laws were now increasingly being used in an ever more political manner, Mr Perkins said

"Court decisions which convict genuine, non-violent community leaders of 'treason' or 'terrorism' cannot be expected to command respect"

The US ambassador found it "troubling" that many people in South Africa received long prison terms or even death sentences because they were unable to obtain adequate defence

"In some parts of the country no lawyer would even "touch a case which challenges the authorities in any way", he said

Govt urged to release detainees

Star 12/12/88 (252)

The Human Rights Commission (HRC) yesterday issued a statement urging the Government to "end the incarceration of members of families who have attempted to challenge a system which, by its very nature, denies fundamental freedoms to the majority of the people"

The HRC expressed its concern at the continuing state of emergency, which is entering its 31st month

"During this period, opposition in the country has virtually been stifled through the various means of repression at the command of the State One of these has been the use of detention without trial to withdraw and silence those people who reject the policies of apartheid.

180 DETAINEES

"There are some 180 detainees who remain in Diepkloof prison, some of whom have been there since the state of emergency was declared

"They serve as an example of the many other long-term political detainees who are held as 'prisoners of war' in a country that is in a state of civil war with its own citizens.

"Long-term detentions involve heavy personal costs Families are forcibly broken up and students and children are subject to indefinite incarceration," the statement said — Sapa

Envoy Perkins on 'harsh verdicts'

S/Times 11/12/88

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By DAVID JACKSON

THE American Ambassador to South Africa, Mr Edward Perkins, yesterday criticised court verdicts which convicted "genuine, non-violent community leaders" of treason or terrorism

Such court decisions "cannot be expected to command respect," Mr Perkins told a meeting of Lawyers for Human Rights in Johannesburg yesterday

The meeting marked the 40th anniversary of the Universal Declaration of Human Rights, to which South Africa was not a signatory

Challenge

Members of the Delmas trial defence team were in the large audience

Mr Perkins said that aside from the "institutional injustice of apartheid," it seemed that South Africa's security laws were being used in an "ever more political manner."

He added "Laws which remove persons' rights to challenge their detentions in court only encourage those who see the entire system as incapable of addressing their grievances.

"At the same time, they reflect a disturbing unreadiness on the part of the authorities to submit their own actions to review, even under the terms of laws heavily stacked in their favour."

The ambassador said the record of how the law served the cause of human rights in South Africa was "mixed". Jurisdiction was being removed from the courts in an increasing number of cases

The content and traditions of South African law were, at their best, deeply impressive

But Mr Perkins argued. "It would seem that South African lawyers have not always shown an appreciation of the special responsibilities that go with their privileged position as interpreter of the law for the rest of society

"It is troubling to see how many persons receive lengthy prison terms, or even death sentences, because they are unable to obtain an adequate legal defence

"There are parts of this country where no lawyer will touch a case which challenges the authorities in any way

"More broadly, perhaps the legal profession could have taken a stronger stand against statutory and other measures which have differentiated among South Africans on the basis of race or colour, or which have undermined the integrity of the legal system itself"

The ambassador said preventative detention had, to him, always symbolised one of the worst kinds of human rights abuse

Hopeful

Yet there were hopeful signs, Mr Perkins said.

The initial response to Mr Justice Didcott's recent decision on representation had been heartening, while Mr Justice Goldstone's decision, that those evicted under the Group Areas Act should first be provided with alternative housing, was encouraging

Inquest to be re-opened

S/Times 11/12/88

By HAMISH McINDOE

THE Government is to re-open an inquest into the controversial killing of seven alleged ANC insurgents by police in a black township two years ago.

This week, the Attorney-General for the Cape, Mr Niel Rossouw, said "fresh information" about the killings had come to his attention and the case was to be opened in the "public interest".

The seven men, who have been linked to the ANC, died in a shootout with riot police in March, 1986, in Guguletu township, near Cape Town.

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Subsequently, eyewitnesses interviewed by journalist claimed that one man was shot after surrendering and another, lying wounded on the ground, had been "finished off".

Mr Rossouw declined to elaborate on the new information or from what quarter it had come.

He has ordered the inquest magistrate, who made his finding only on sworn affidavits, to re-open the case.

"It is likely the new information will make a difference to the case, and that is why I have ordered the inquest to be re-opened," he said.

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Mkhatshwa settles his torture claim

Government pays R25 000, but denies any liability

By HAPPY ZONDI

AFTER accepting R25 000 and legal costs from the Minister of Law and Order in settlement of a damages claim for alleged torture in detention, Father Smangaliso Mkatshwa said this week he was considering further legal action against the security police

Mkhatshwa, secretary-general of the Institute of Contextual Theology, sued the government for R40 000 for being unlawfully and intentionally interrogated, assaulted and humiliated by security force members while detained under emergency regulations in 1986

Six men were charged with crimen injuria in August last year in connection with the case They were a Captain Moller, Lt Fourie, Lt Middleton, Lt Vermaak, Lt Singleton and a Maj Fourie Moller paid admission of guilt of R200, while the others were absolved

Mkhatshwa said he had not been given a chance to identify the men who assaulted him Although he was blindfolded while being assaulted, he could identify his assailants by their voices, he said

"I am doubtful whether this matter has been treated with justice, because not only white officers were involved There was a black man among them," Mkhatshwa alleged, pointing out that no black man's name appeared among those charged

"I might pursue the matter further I am not interested in the money I would have preferred a public court hearing, but after consultation with my legal representatives, I finally decided to accept the settlement," said Mkhatshwa

The claim was settled by the government without admitting any liability and, according to Mkhatshwa's legal adviser, is one of the highest settlements in a civil action in recent years

Father Mangaliso Mkhatshwa ... accepted settlement.

A veteran in religious and political matters, the former secretary-general of the Catholic Bishops' Conference recently received an honorary doctorate from one of Germany's oldest universities, the University of Tubingen

He was honoured for his leadership in the struggle for human rights and dignity, but was not granted a passport to enable him to go abroad to receive his award

In 1987, Mkhatshwa was awarded the Steve Biko Human Rights Award

Phased release slated by many leaders

CP Reporters

THE continuing steps towards the final release of Nelson Mandela are being seen in some quarters as "taking the sting" out of the worldwide publicity his freedom will generate C/Press 11/2/88

The latest move on Mandela has once again fuelled speculation that the government is phasing his release.

Skotaville editor, Nokwanda Sithole said: "We are dealing with a man who has been in prison for about a quarter of a century. He has become a very important symbol, a symbol of hope and of the struggle."

Post and Telecommunication Workers' Union president Vusi Khumalo said: "Away with the release of Mandela in stages. (252)

"If this is part of the reform process, away with it, too, because we want the total scrapping of apartheid."

Dullah Omar, a human rights lawyer, called the move "utterly disgraceful and callous".

"What we were looking forward to was his release, not a transfer from a clinic back to prison," Omar said.

The PFP's Zac de Beer welcomed the transfer on humanitarian grounds, but added: "Mandela must be given the freedom to participate in making his contribution towards the future."

Nactu president James Mndaweni said: "We welcome the release of Mandela. However, we condemn the tactics of the State in not allowing Mandela to go to his home as a free man."

S/Times 11/12/88 11A 252

The shadow of Mandela

As old black leaders were being released, new ones were sentenced . . .

By DAVID JACKSON

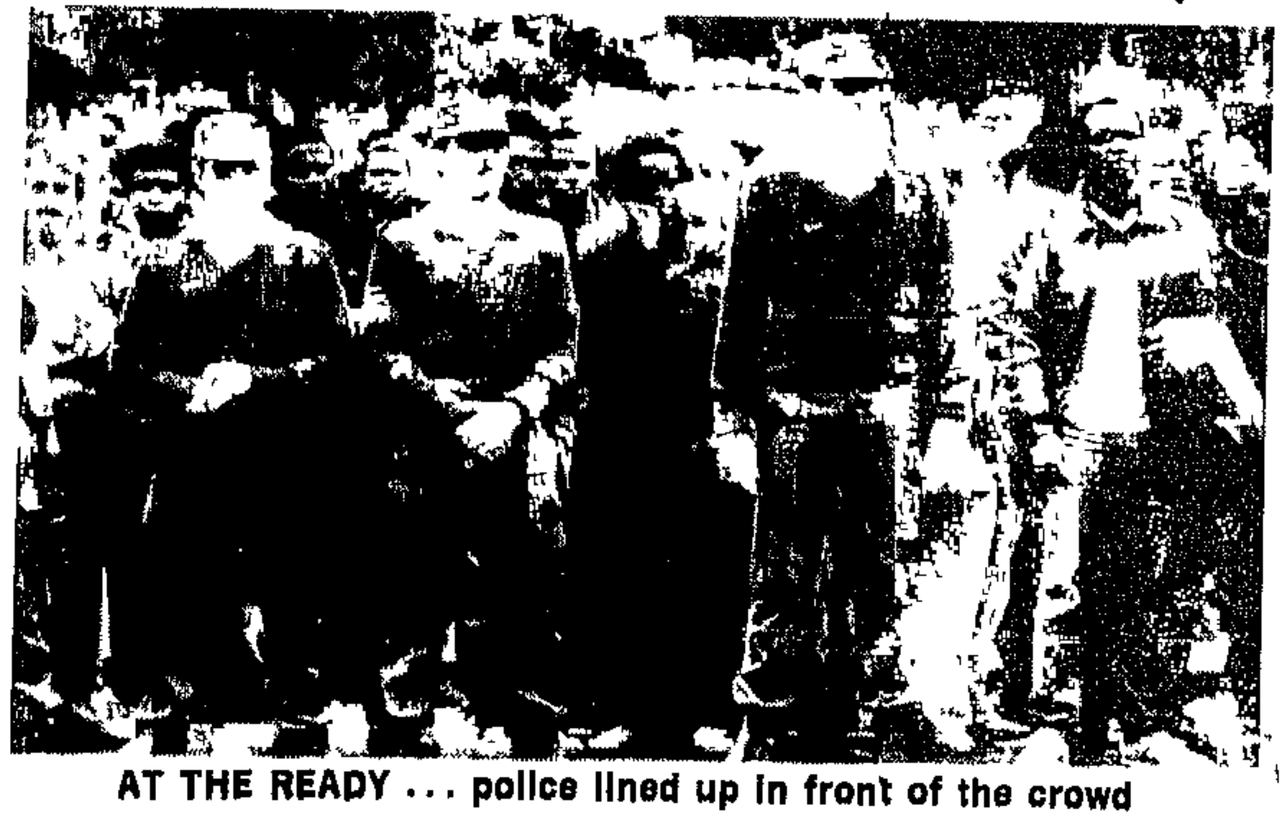
THE name of 70-year-old Nelson Mandela — now living in a gilded prison near Paarl — featured large in the closing stages of the Delmas treason trial this week.

At the Palace of Justice in Pretoria 25 years ago, an armoured vehicle whisked the African National Congress leader off to a life sentence which he is still serving after being convicted of sabotage and conspiracy.

This Friday, at the same Palace of Justice, a new generation of black political leaders began their incarceration after the most notable political trial since Rivonia.

- United Democratic Front publicity secretary Patrick "Terror" Lekota, who had a previous conviction for terrorism, was jailed for 12 years;
- Fellow UDF leaders Popo Molefe and Moss Chikane received 10-year sentences — all for treason,
- Black consciousness activist Tom Manthata got six years' for treason and Gcinumuzi Malindi, with a previous conviction for public violence, was jailed for five years for terrorism

In addition, six Vaal Civic Association members were given suspended five-year sentences for terrorism. A series of conditions were attached to the suspensions



AT THE READY . . . police lined up in front of the crowd

Sang

And — as they did 25 years ago — supporters in the crowd sang the African national anthem, Nkosi Sikelela' iAfrika, raised clenched fists and chanted slogans.

GIVING SUPPORT . . . Frederik Van Zyl Slabbert and Nadine Gordimer

Pictures: JUHAN KUUS

process while other leaders were in jail

African Bank chairman Sam Motsuenyane said he joined the ANC before its banning in 1960 Mandela and Mr Tambo, who were his friends, had the popular support of the black community in general.

While he and other businessmen regretted the violence during 1984 and 1985, this had to be seen against the backdrop of increased tensions because of the creation of black local authorities and the tricameral Parliament, which was not accepted by the local community.

Asked whether Mandela was still his hero, Dr Motsuenyane replied. "Unquestionably he is my hero

"I support the objectives of the ANC except for the violence.

"I believe the ANC would come to the conference table and talk if a proper political climate was created"

Former PFP leader, Idasa director and Witwatersrand University business school professor Frederik Van Zyl Slabbert said the ANC would have to be unbanned and Mandela released before any meaningful negotiation could take place

Calls made by the UDF for the release of Mandela and the unbanning of the ANC were general calls not only limited to the UDF Calls had been made by the Eminent Persons Group, Zulu Chief Minister Mangosuthu Buthelezi and Mrs Margaret Thatcher

Dr Slabbert said he did not support violence But he had learnt from discussions with the ANC's national executive committee that the armed struggle was "a last resort after decades of peaceful protest"

The release of Mandela, the unbanning of the ANC and the freedom of political association were crucial to reconciliation

Novelist Nadine Gordimer said she supported the ANC and regarded Mr Tambo and Mandela as her leaders She said she could support an organisation without agreeing with everything it stood for

Throughout this week's hearings, the 11 accused sat impassively in the dock, facing the proceedings as if looking out on to a stage from the front row The players came and went — as they had done for 437 court days, stretching through 37 months, since the marathon trial began on October 16 1985

Occasionally the head of one or other of the accused men would sink back wearily — perhaps as they dozed for a few seconds At other times, they listened absorbed as witnesses argued their place in history.

They grabbed the few precious seconds at the end of each session for a brief chat with friends and loved ones in the gallery before being ushered down the steps to custody below. There would be a wave, a blown kiss — or even snatched hugs and kisses from admirers

Now and again the tension was tangible Such as when police, anxious to get the accused from the courtroom at an adjournment, had a verbal brush with the prisoners

"Moenie vat aan my," (don't touch me) remonstrated one of the UDF men with a policeman as a heated argument ensued

The court found the UDF was a revolutionary organisation which had chosen the violent option and aimed to render SA ungovernable The three UDF trialists had been part of the "conspiratorial core"

Executed

Mr Justice Van Dijkhorst, passing sentence, said it was a well-conceived plan, executed over a long period with devastating effect

Although not all unrest-related damage could be blamed on the UDF and its affiliates, the UDF had "a lot to answer for"

He said he appreciated the demise of the UDF might leave a void which could take a number of years to fill. It might even slow down the process of reform as had been alleged But the UDF had only itself to blame for those consequences

Outside the court, as the sentences were announced, armed police lined the pavement facing the entrance to the Palace of Justice. More straddled the stone steps as knots of blacks looked on from Church Square.

They waited for news of the destiny of the UDF leadership. Moving among them, white handymen with step-ladders, bare-shirted in the Pretoria heat, went about erecting the loudspeakers for the Great Trek "volksfees", due to begin from the same square the next morning.

In a week of subtle symbolism, it was a tableau all on its own. A tale of two nationalisms.

On the steps leading to the entrance, a white policeman in shorts with gun in holster, reclined with a newspaper whose headline read Mandela moved to house

Inside the court, some of the undertones and the ironies did not pass unnoticed.

Ironic

Defence counsel Mr A Chaskalson, SC, said it was "ironic" that at a time when old leaders were being released "a group of new political leaders is about to be sentenced".

He told Mr Justice van Dijkhorst these were people seen as heroes by the black community, "with different perceptions made in terms of different values and different criteria".

He reminded the judge. "You are a white judge sitting in judgment on black leaders. "

There was no specific reaction from Mr Justice Van Dijkhorst to this observation. Throughout the defence summing up, the judge looked on with an air of contemplation, taking notes and occasionally seeking a point of clarification.

Earlier, giving evidence in mitigation, KaNgwane Chief Minister Enos Mabuza said he and his constituents regarded Mandela and Mr Oliver Tambo as their leaders He said "credible leaders" found it difficult to take part in the negotiation

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The UDF was a viable movement with a strong message. It had a large and enthusiastic following. But it had chosen violence instead of moderation. It had done SA a disservice.

The judge also remarked: "I hold the view that these accused, especially Molefe, can in the future play a constructive role in the political scene, provided that they — by their words and deeds — forswear the violent option and act within the law. The sentences should therefore not frustrate this possibility."

11A

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Campaign to save unionists on death row

C/Press 11/12/88

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Their lives are in the hands of PW

By KERRY CULLINAN

AN international campaign has been launched to save the lives of three Transport and General Workers' Union members on death row

Durban Putco bus drivers Stanford Ngubo, Johannes Buthelezi and Bethuel Sabelo were found guilty, together with an unemployed man, William Khuzwayo, of murdering another driver, Retford Shezi, who continued to work after his colleagues had been suspended

The four were refused leave to appeal by Judge Van Heerden, and last week they were informed that their petition to the Chief Justice for leave to appeal had also been refused

The only thing that can save them from the hangman's noose now is if State President PW Botha decides to grant them clemency

Van Heerden refused them leave to appeal on the grounds that he could find no extenuating circumstances to reduce their moral blameworthiness.

He found that the four had, in December 1986, gone to a major road in Durban in Ngubo's car and that Khuzwayo had then boarded the bus driven by Shezi and shot him four times

He said the three TGWU members had hired Khuzwayo to kill Shezi after Shezi had started organising other drivers to join him in servicing Umbumbulu and KwaMakhuta following the suspension without pay of over 200 drivers

The 200 had been fired after they had refused to collect fares in October of the same year following a dispute with Putco management

However, defence lawyers for the four pointed out that there was conflicting evidence about whether Ngubo's car had been at the scene of the murder.

According to TGWU information officer Kally Forrest, the Australia Council of Trade Unions, German Trade Union Federation and the British Trade Union Council had all taken up the issue with their governments, as had the French, the Dutch, British and Australian embassies

"The International Transport Federation, to which we are affiliated, is also in the process of informing overseas unions," said Forrest.

She added that the three men had all been staunch union members, while Khuzwayo had also belonged to the TGWU prior to him being dismissed

Star 10/12/88

What price black judge

(252)

PAT DEVEREAUX

BEFORE blacks can be appointed as judges or magistrates in South Africa, it may be necessary to overhaul almost the entire legal system which discriminates against them.

This was the view of legal experts responding to the Minister of Justice, Mr Kobie Coetsee's, recent hint at the possibility of blacks being appointed as judges and magistrates.

At the recent opening of an attorney's office Mr Coetsee reportedly said blacks were increasingly in positions where they had the opportunity to represent their own people

"But we must first find avenues to introduce more people of colour to the legal profession We need them as judges, magistrates and attorneys," he said, adding that this is imperative for the continued legitimacy and status of the legal profession in the eyes of all South Africans

Director of the Centre for Applied Legal Studies at the University of the Witwatersrand, Professor John Dugard, said "It would be difficult to appoint black judges immediately as judges are normally appointed from the ranks of senior counsel and professionally there were only two Indian senior counsel inside the country eligible for such an appointment"

Professor Dugard also said it might be difficult for a black person to accept such an appointment as the South African legal system and the judiciary was questioned by the majority of South Africans and most foreign governments

Welcoming the possible move to appoint black judges as a positive step, Mr Peter Leon, Witwatersrand chairman of Lawyers for Human Rights, added that it should have been done a long time ago.

'Law itself needs first be altered'

"Appointments to the Bench used to be the highpoint of a distinguished career at the Bar. Now the irony is that many liberal and black senior counsel members would refuse to take appointments because of the way they view the Bench and the enforcement of laws such as the death penalty"

Chairman of the Black Lawyers Association, Mr Keith Kunene, said the question was whether blacks would take appointments as judges and, if they did, whether they would not be viewed as collaborators

"I could not sit on a Bench which enforces laws — the fruit of 40-year-old Nationalist Government policy — which discriminate against me"

In May, Rand Supreme Court Judge, Justice Goldstone said. "Black lawyers question the legal system's legitimacy not only because of laws which discriminate on colour but for the reason that blacks have not participated at all in the law-making process"

A former Appeal Court Judge, Mr Justice Trengrove, said judges in South Africa were obliged to apply unjust laws passed by Parliament in which blacks were not represented

Namibian advocate and Swapo member, Mr Anton Lubowski, pointed out recently that approximately 90 percent of all criminal cases involve blacks but white judges and magistrates sat in judgment on them and sent them to prison

Star 10/12/00

SA stands accused

● FROM PAGE 1.

The SACBC called on all Christians to defend human rights and freedom as set out in the UN declaration and said "May Human Rights Day today see a new initiative by all in South Africa to achieve human rights now"

In its latest annual report Amnesty International lists South Africa with Chile, Argentina and El Salvador as countries which continue to deny their citizens fundamental rights and treat demands for them as subversive

Detention without trial is common Since June 1986, the South African Government has detained over 30 000 people, mental torture is permitted by law, the freedoms of speech, assembly and association are curbed, racism is entrenched in the law and the vote is denied to 70 percent of the population, said human rights law expert and HRC commissioner, Professor John Dugard

The United Nations was created not only to maintain peace but in the words of the UN charter to "encourage respect for human rights and fundamental freedoms for all" Although South Africa is a full member of the UN it has been excluded from speaking because of abuse of human rights, according to Professor John Dugard

He pointed out that there were no actual signatories to the declaration in 1948 Forty-eight member countries of the General Assembly voted in favour of the resolution setting out human rights, but South Africa, along with the Soviet bloc and Saudi Arabia, abstained

Many of the UN's 159 member states have passed their own Bills of Rights modelled on the declaration

In South Africa, the Human Rights Commission intends to use the Universal Declaration of Human Rights as a yardstick to measure the observance and violation of human rights

A meeting to mark the International Human Rights anniversary will be held at Johannesburg's Central Methodist Church in Pritchard St, Johannesburg at 11 am today

It will be chaired by the Johannesburg chairman of Lawyers for Human Rights, Mr Peter Leon, and addressed by the American Ambassador, Edward Perkins and the Secretary-General of the SACC, Rev Frank Chikane

● There will be a service at Durban's Central Methodist Church in Aliwal Street at 2 30 pm tomorrow

HUMAN RIGHTS DAY (252)

Long way to go

FMAIL 9/12/88

This Friday marks the 40th anniversary of the UN's adoption of the Universal Declaration of Human Rights SA, having then just installed the new Nationalist government, did not sign it. Neither did the Soviet Union. Both countries, says SA Human Rights Trust director Rory Riordan, have gone on to develop two of the world's worst human rights records

It's not difficult to see why SA had the engaging honesty not to sign, since the Declaration says "The will of the people shall be the basis of the authority of government, this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret

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vote or by equivalent free voting procedure." Of course, many countries which did sign still have a long way to go to live up to this pledge

Riordan notes "Of the 88 nations surveyed for human rights offences by Humana in 1986, SA is dumped sixth from the bottom, between Libya and Rumania, and only just better than the pariah states of the Soviet Union, Iraq, North Korea and Ethiopia"

According to the Humana's World Human Rights Guide, torture by the State took place in 72% of the 118 nations under review, and political murders and disappearances occur in 38%

South Africans have lost rights on a terrifyingly broad front, observes Riordan "From the right to travel abroad freely to the right to assemble as one will; from freedom from torture to freedom of unintercepted mail, from elaborate press censorship to unwarranted police searching — we have lost right after right over time in a systematic assault that continues and gains in intensity We hang more of our citizens than any other country"

According to Amnesty International, the Universal Declaration of Human Rights and the Charter of the UN, from which it flowed, "represented a revolutionary development in international law. They established the principle that individuals have the right to be protected by the international community" Millions have indeed found inspiration in the document, whose preamble, for the record, reads "All human beings are born free and equal in dignity and rights They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood" We live in hope ■

38 years' jail for 4

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Delmas trial sentences

By MONK NKOMO

FOUR men, including three officials of the United Democratic Front, were jailed to a total 38 years and six others — all members of the Vaal Civic Association — were each given five years' suspended sentences but under stringent conditions in the Delmas treason trial yesterday.

UDF secretaries Popo Moelefe and Moses Chikane were each sentenced to 10 years' imprisonment and Terror Lekota, who has a previous conviction of terrorism, was jailed for 12 years Tom Manthata, a fieldworker of the South African Council of Churches, was sentenced to six years' imprisonment

All four men were convicted of treason

Violence

Petrus Malindi, who is also a member of the VCA and has a previous conviction of public violence, was sentenced to five years imprisonment by Mr Justice van Dijkhorst who is sitting with an assessor

Six other members of the VCA — Sam Matlole (63), David Mphuthi (49), Naphtalie Nkopane (43), Tebello Ramakgula (38), John Mokoena and Jacob Hlonyane (40) — were each sentenced to five years' imprisonment suspended for five years, but under the following conditions

- That they are not found guilty of treason, sedition, terrorism, sabotage, subversion and arson during the period of suspension,
- they should not attend meetings except bonafide church and sports meetings during a period of two years. Any gathering of more than 20 would be regarded as public meeting,
- They should not issue Press statements or give interviews to journalists during a period of two years,
- During that period of suspension, they should not serve in any political, civil or youth organisations or participate or speak at meetings of such organisations,
- They should not, during that period, participate in any organised protest action

Mr Justice Van Dijkhorst remarked that there was some cause for leniency in this case and said the demise of the UDF may lead to the void which might take years to fill and might slow down the process of reform in this country

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Sowetan 9/12/88

A day to remember

By PHANGISILE MTSHALI

THE world's nations will be commemorating the 40th anniversary of the Universal Declaration of Human Rights tomorrow

The Declaration was signed on December 10, 1948. It was adopted by 48 nations and South Africa joined eight countries who abstained No country voted against it.

South Africa was represented by the National Party, which had just came to power on the Apartheid ticket.

"It is interesting but not strange that South Africa is not a signatory of this declaration," said the regional organiser of the Lawyers for Human Rights, Mr Aubrey Lekwane, in an interview

"The Apartheid policy legislates on a basis of race and deprives sectors of the South African community almost all the rights stipulated in the Declaration.

"The Lawyers for Human Rights aim to create public awareness of these fundamental rights and to protect those who are deprived," said Mr Lekwane.

A gathering to celebrate the day will be held at the Central Methodist Church, Pritchard Street, Johannesburg tomorrow from 11am.

The gathering will be addressed by the American Ambassador, Mr Edward Perkins and Rev Frank Chikane, general secretary of the South African Council of Churches

"Even the most basic and fundamental rights stipulated in the Declaration are violated by South African laws," said Mr Lekwane.

One of the basic rights states that "everyone has a right to take part in the government of his country" has been violated as a majority of the South Africans are denied that right.

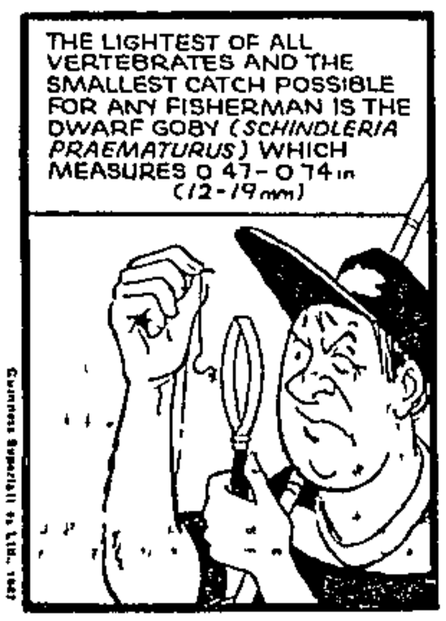
"The Internal Security Act, helped by the state of emergency, has managed to take away "the right to freedom of peaceful assembly . and association"; freedom of opinion and expression, freedom to receive and impart information and ideas through the media" (252)

"The Separate Amenities Act takes away "the right of equal access to public services.

"The creation of homelands effectively deprived millions of South Africans of their citizenship and nationality," said Mr Lekwane

'Scrap it'

THE Witwatersrand Chamber of Commerce and Industry, which represents the largest concentration of business in the country has called for the repeal of the Separate Amenities Act which allows local authorities to set aside public amenities for certain race groups only.



'Club not broke'

CAPE TOWN Spurs were not insolvent and would be able to settle its debts by "this week". Mr Noel Johnson, sole director of the club, told the Supreme Court, Cape Town.

In papers before the court, Mr Johnson, is opposing an application by chartered accountant Mr Michael Felthun, for the liquidation of Cape Town Spurs. The case continues on December 14.

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Judgment in Delmas treason trial

Star 9/12/88

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The four men convicted of treason in the Delmas trial were sentenced to 12, 10, 10 and six years.

One of the men convicted of terrorism, Gcina Malindi, was sentenced to a five-year jail term, while the remaining six convicted of terrorism were given conditionally suspended terms of five years.

The conditions on which the sentences were suspended were that the six men should not:

- For five years, be convicted of treason, sedition, public violence, terrorism, sabotage, subversion, or arson.
- For two years, attend public gatherings, barring *bona fide* sports and church gatherings.
- For two years, issue news statements or grant interviews to journalists.
- Serve on the executive or take part in meetings of civic and youth organisations.
- Participate in or organise public protest actions.

The judge sentenced Patrick "Terror" Lekota to 12 years' jail, Popo Molefe and Moss Chikane to 10 years each and Tom Manthata to six years.

They were all convicted of treason.

Malindi, convicted of terrorism, was jailed for five years because he had a previous public violence conviction and had "persisted in his course of conduct".

Those who received the suspended sentences were David Mphuthi, Napthali Nkopane, Tebello Ramakgula, Sekwati Mokoena, Jacob Hlanyane and Sam Matlole.

Tragic consequences foreseen as Delmas accused are sentenced

Star 9/12/88

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STAFF REPORTERS

The sentencing of the Delmas 11 in Pretoria yesterday has met with strong criticism from inside South Africa and abroad

And serious questions have been raised over the conditions attached to suspension of sentence of six of the trialists — described by lawyers as being "tantamount to imprisonment".

Archbishop of Cape Town Desmond Tutu has promised to "leave no stone unturned in an effort to overturn the sentences and conviction"

He said "If what these guys have done is treason, then we are guilty of treason I am not going to hold back in what I intend doing"

Others have expressed anger and sadness, and predicted tragic consequences following the "criminalisation of leaders of such calibre".

The United States Embassy hoped the Appeal Court would "take into consideration the broader implications of the case" in reaching its decision

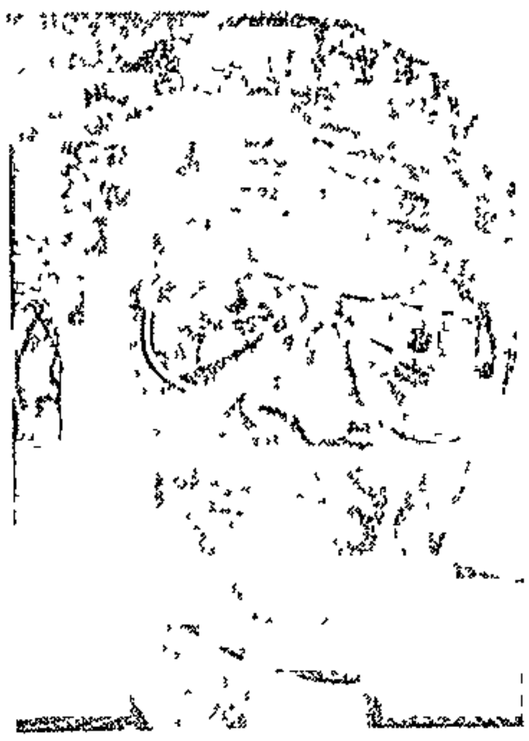
An embassy spokesman said that even though the sentences were not as harsh as they might have been, the judgment was still regrettable because of "its grave implications for those who were committed to pursuing political change through peaceful means"

"We have been in constant contact with the defendants and know them to be men of goodwill working peacefully for a non-racial, democratic South Africa"

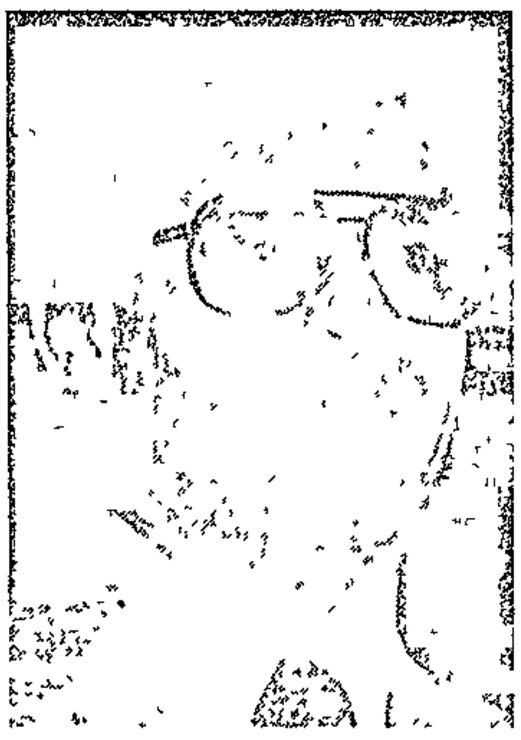
The Rev Allan Boesak, president of the World Alliance of Reformed Churches, said the sentence on the three convicted of treason was extraordinary, in that they should not have been tried at all

"I believe that if you allow this to happen, that means that we will concede that everything we have been doing is criminal, is illegal, is wrong, is treasonable"

Mr David de Villiers, a senior practising counsel in Cape Town and a member of the eight-man leadership committee of the National Democratic Movement, said "The conditions of suspension of the terrorism sentences are certainly novel Lawyers generally have regarded such banning restrictions, when imposed by the executive, as making serious inroads on civil liberties and the rule of law



Archbishop Desmond Tutu .. I will leave no stone unturned



Dr Allan Boesak they should not have been tried at all

"Whether the courts themselves should employ such mechanisms in suspending sentences might well prove to be a serious bone of contention"

He regretted "it was necessary at all to impose sentences on men of such calibre"

Progressive Federal Party spokesman on justice Mr Dave Dalling said the sentences were "likely to attract condemnation from most observers in the outside world and would certainly do nothing to assist the process of reconciliation in SA"

He added "It is peculiar and inappropriate for a judge in a case such as this to attach conditions to the suspension of a sentence which prevent the convicted person from pursuing lawful activities

"It is certainly a new and unhappy departure for a judicial officer to utilise restrictions used in the past by the political executive of the country."

A Black Sash spokesman said "The criminalisation, jailing and restricting of these leaders who have courageously opposed apartheid will have tragic consequences for our society

"We are angered and saddened by the sentences. We know, admire and respect many of the accused and believe they are important figures in the South African political scene who have a vital role to play in the resolution of conflict here"

Lawyers for Human Rights director Mr Peter Mothle deplored the restrictions, which were "tantamount to imprisonment"

He said "The crux of the evidence led by the defence in mitigation is that the UDF and in particular the Delmas trialists should be released to society to make a contribution to the efforts aimed at reaching a peaceful resolution of the country's problems. It would have been proper to have the entire sentences suspended and keep the trialists out of prison"

Mr Mohammed Valli, one of three men who sought refuge at the US Consulate after escaping from detention, said he was taken aback that some people regarded the sentences as light, as they were "extremely harsh"

"Government needed this trial to justify its arbitrary action against the UDF," he said

He added that there were thousands of people who were involved in the same activities that the accused had been convicted for, but they were free

The sentences would not act as a detterent as heavier sentences dished out in the past had failed to stop the freedom struggle

Mr Cassim Saloojee, president of the Transvaal Indian Congress, an UDF affiliate, described the sentences as tragic Despite the judgment, his personal experience left him convinced that the UDF was a non-violent organisation

He said many anti-apartheid activists had seen the UDF as the last-ditch non-violent initiative

"These sentences make it almost impossible for people outside of Government-created structures to attempt to work non-violently and peacefully for change"

Dr Max Coleman, of the Human Rights Commission, pinpointed the judgment as the problem — not the sentences

He said the 11 were given relatively light sentences because the Government wanted to project a better image abroad The sentences were light in comparison with the judgment

The National Union of Mineworkers expressed "deep anger and shock" at the sentences meted out to "democratic and peace-loving men, regarded by the majority in this country as outstanding and responsible leaders"

"They have been found guilty of expressing the will and hopes for the future of black South Africans If this is treason, then surely the Government should charge every black South African"

The Association of Chambers of Commerce and Industry refused comment "as yet". The Afrikaanse Handelsinstituut refused to comment

In a statement the National Union of South African Students condemned the sentences "in the strongest possible terms" and said the removal of representative and responsible leaders had serious implications for the possibility of peaceful change in SA

"The implication of the Delmas judgment is that almost any extra-parliamentary opposition to apartheid will be regarded by the Government as a criminal activity"

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Cape judge hits back at critics

CAPE TOWN — Mr Justice Braam Lategan, of the Cape Supreme Court, has hit back at criticism of his judgment and sentence in a case in which he applied the death sentence

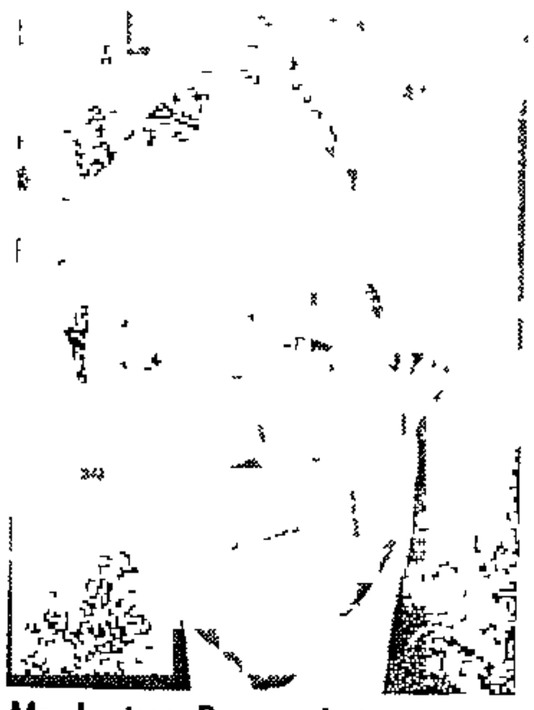
In a statement he said he believed an Appeal Court judge's setting aside of his judgment and sentence of a recent case should be thoroughly investigated in a public inquiry

This is the first time that Mr Justice Lategan has reacted to reports in which his judgment in this specific case and also earlier cases has been questioned

In a Sunday paper, for example, he was referred to as the "hanging judge" after Appeal Court judge Mr Justice A S Botha set aside a death sentence he had passed on Albert Pietersen (20) on a charge of robbery with aggravating circumstances

Mr Justice Botha said the sentence was "so shockingly unsuitable that it staggers me"

Professor Dennis Davis of the



Mr Justice Braam Lategan .. calls for a public inquiry into Appeal Court ruling.

University of Cape Town faculty of law and national director of the Society for the Elimination of the Death Sentence, said on Wednesday he would write to the Minister of Justice, Mr Kobie Coetsee, over the Pietersen case

He called for a comprehensive study of all the capital cases in which Mr Justice Lategan had made findings as well as those of other judges. The recommendations of this study should be sent to Mr Coetsee

The Appeal Court's statement on Judge Lategan was the strongest correction he had ever heard, Professor Davis said. If anyone other than a judge had said it, he would have been charged with contempt of court

Because of this and other criticism, Mr Justice Lategan, a former attorney-general of the Cape, said

"I want to make it clear at this stage that I am not going to hide behind the *sub judice* rule, that I am fully prepared for a full open inquiry, and that I would prefer it"

"My integrity and honesty as judge and person is at stake without my wanting it to be so

"I would prefer that it was investigated objectively and that conclusions could be drawn by the public, the man in the street for whom I was appointed as a judge," Mr Justice Lategan said — Sapa

Protest against death sentence

Star 9/12/88 (252)

The Commercial Catering and Allied Workers Union yesterday launched a campaign to protest against the death sentence on one of its members

A former Ccawusa shop-steward, William Ntombela (33), was sentenced to death for his role in a strike at Nels Dairy, Victory Park, Johannesburg in June 1986

On November 29, Ccawusa's appeal against the death sentence failed after months of legal argument and at great financial cost to the union

According to the union, Ntombela was working at Nels Dairy in Victory Park in June 1986 when hundreds of Ccawusa members went out on strike in response to the state of emergency and conditions at the dairy

Ntombela was dismissed on June 10 and workers went out on strike on June 18

More than 900 workers were bundled into vans, taken to jail and released two weeks later

"On their release they found that non-union labour had replaced them

"The workers were also evicted from their hostels and Ntombela, like the other workers at Nels who came from Natal, was left homeless," the Ccawusa statement said

"In the conflict which followed two people were killed and Ntombela is now held responsible for these deaths" — Sapa

connection with alleged participation in the ring. ... either arrested or investigated of abuse, have committed suicide

... Saturday's massacre in Trust Feed on Wednesday after the situation became "dangerous for journalists". — Sapa

Lategan says he would welcome investigation

Cape Times 9/12/88

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Staff Reporter

MR JUSTICE BRAAM LATEGAN of the Cape Supreme Court, who recently came in for scathing criticism from an Appeal Court judge, yesterday said he would welcome a "thorough investigation" and that he had "nothing to be ashamed of".

Contacted at home where he is on leave, Mr Justice Lategan said he had nothing to hide and that he would be "very grateful if this could be thoroughly investigated by other outside parties".

He also confirmed telling the Burger that "certain newspapers and certain gentlemen chose to express themselves through the media over my actions in the particular case".

"I want to make it clear that I will not hide behind the sub judice rule; that I am completely prepared for a full public investigation; and that I would in fact choose it to be so," he said.

Mr Justice Botha, of the Appellate Division, sitting with two assessors, scathingly referred to a recent death sentence passed by Mr Justice Lategan as so shockingly inappropriate that it flabbergasted him.

It was the fifth murder conviction and death sentence handed down by Mr Justice Lategan to be set aside in the past two years by the Appeal Court. In a sixth case three years ago, a death sentence imposed by him for murder was reduced to 12 years.

Mr Justice Botha also said that it was disturbing that Mr Justice Lategan had in a previous case, which came on appeal to his court, made a mistake of exactly the same sort.

"I must accept that the trial judge did not take notice of what was said in the judgment of this court in that case. I can only express the hope that he will now take notice," he said.

The latest outcry has sparked a letter to the Minister of Justice by UCT's Professor Denis Davis.

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