



CRISIS NEWS

No 29

A bulletin of news and theological reflection on the
South African emergency

May 1989

VIGILANTE VIOLENCE

In 1988 more people died in the Pietermaritzburg district of Natal, than in Beirut Lebanon (the war zone of the world) during the same period. The death toll there has accounted for two-thirds of the national "unrest deaths". With over 528 people dead, the Edendale valley is now called the 'Valley of Widows'.

1989 started with violence. On New Year's eve about 100 heavily armed men from Mpumaza, an Inkatha-dominated township, attacked Ashdown, a UDF-controlled neighbouring town. Two Ashdown residents were shot dead and about twenty others shot and wounded. Three Inkatha people died, two having been shot dead by the police. It is uncommon for the police to injure Inkatha members and it offended Inkatha. When Mpumaza residents launched another attack with guns on Ashdown residents who defended themselves with assegais, the police patrol backed off.

The conflict in Natal has claimed many lives. In February 1988 the government restricted Archie Gumede and Simon Gqubule who were working towards peace in the area. Late last year Inkatha and COSATU established a Complaints Adjudication Board (CAB) to restore order to the area. However, it is unlikely that residents will be willing to testify before the CAB, after the murder of a witness who opposed Inkatha early in May. Moreover, Inkatha members



The coffins of Mduduzi Myubo & Nduda Muthnu, victims of the violence around Pietermaritzburg Cedric Nunn

facing criminal prosecution have been unwilling to testify before the CAB.

Peace is a priority. There are plans for a peace conference, and Chief Gatsha Buthelezi has proposed a "summit of the presidents" of the ANC, UDF and COSATU with himself to "democratically establish a joint initiative and joint priorities in the pursuit of peace in the region". Organisations are committed to the peace process as the killings must stop.

FOCUS ON STATE LAWLESSNESS





Co-option and Control

The bloodshed and terror in Pietermaritzburg is not limited to Natal. Throughout the country, vigilante groups have destabilised communities under the protection, both active and passive, of the police. By October 1988 vigilante attacks accounted for 90% of the "unrest"-related deaths, leaving over 2000 people dead.

Vigilante groups in South Africa can broadly be defined as right-wing forces who eliminate individuals and groups opposed to the South African state. They are composed of officials of the state and the emerging middle-class seeking stability. A survey of sixteen communities where vigilante activity exists showed a distinct pattern. In 1985 as the political crisis and the State of Emergency extended throughout South Africa, there was a corresponding geographical development of vigilante groups.

Why have vigilantes emerged since 1985?

At this time the people of South Africa refused to accept the government's "reforms" which did not address their needs. There were rent, consumer and school boycotts, 29 out of 34 town councils collapsed, Tricameralism was rejected and the economic decline accelerated. The police and military responded with maximum force. Over 10 000 people were detained and over 1000 people killed. There were massacres at Mamelodi, Winterveld, Langa and others. Vigilantes arose in this context instigated by the police and army to assist restore 'law and order'. They exploited the divisions in communities which arose from material deprivation and the uneven allocation of resources to co-opt support.

Vigilantes became a central component in the attempt to destroy popular organisations which survived the direct repression of the State of Emergency. Vigilantes target the same groups throughout the country: students, youth, community leaders, trade union leaders etc. They have created a reign of terror using a high degree of violence.

Community organisations struggle to defend themselves from vigilante attacks for several reasons. Vigilantes have access to firearms which are difficult for black South Africans to acquire. A report from 1985 records how police offered black traders in the Transvaal guns. Police do not normally intervene or curb vigilante

groups, which gives them a substantial advantage over other groups. In KTC in 1987 the police would disperse 'comrades' immediately they gathered, but allow vigilantes to mass and march behind the protection of a casspir. Moreover vigilantes often have access to township council facilities like in Khayelitsha in 1989 where vigilantes have used the council offices to administer whippings to residents illegally. Vigilantes are not normally prosecuted or punished for extra-legal violence, as illustrated in Natal throughout 1988 when police refuse to apprehend vigilantes who have committed murders.

Why are vigilantes important to the government?

The police are limited in their violence towards democratic organisations by negative publicity. Vigilantes can assist the work of the police at a low cost. It is a way of the government privatising repression by encouraging individuals to do the jobs they would like done. Councillors also cannot act openly and need their own force in the community as they lack popular support. As vigilantes live in their communities they can accurately victimise their opponents as they have access to information.

There are significant ideological benefits for the government. Although they have secretly prompted these forces to stand in their place, they can claim they emerged spontaneously from the people and call the fighting which results "black on black violence". They can justify the presence of the police and army in the townships to ensure the safety of the residents.

It is clear in the Pietermaritzburg conflict however, that the police are no protection to the people. They have stood by and watched mob attacks on COSATU and the UDF. They have often refused to accept charges against Inkatha. For example three COSATU members were executed by nine Inkatha members in December 1985. Although these nine men have been positively identified, they have neither been held in custody nor charged. Four or five prosecutions against Inkatha would have saved over a hundred lives. Inkatha warlords have been identified as directly provoking conflict while no leaders of other groups have been seen to participate in the violence.

There have been over 1300 deaths since 1987 and only a handful of prosecutions. When six Inkatha members were convicted

of murdering an elderly woman motivated by their belief that she was a UDF supporter, they were given 3-7 year sentences with half the sentences suspended. This is in sharp contrast to the Sharpeville Six who were sentenced to death for killing a police informer.

There has been an attempt to halt the violence through court interdicts but the five people who gave evidence against Inkatha have since been killed. Vlok has backed Inkatha and tried to sabotage the peace accord by warning Inkatha not to be involved in it. The government has shown its allegiance as at the beginning of 1988 over a hundred COSATU people were detained, compared to five members of Inkatha.

The government's strategy has moved from a "total strategy" where the war must be extended to civil society, to a theory of Low Intensity Conflict (LIC). In LIC there are no battlefronts as it is a war of disorganisation with an emphasis on using local forces, like vigilantes. LIC is not a low conflict war although there is normally low involvement of the military, it can be more violent than conventional war. It emphasises the use of surrogates and reconstructing a political solution, violent-

State lawlessness is the exercise of state power in an arbitrary manner. Conduct is lawless even if it is legal, if it is not controlled by an independent power. In South Africa the law is one of the instruments of the apartheid state. The courts implement laws which authorise forced removals, media restrictions, detentions, political trials, the obstruction of legitimate trade union organisation and other violations of human rights. There are other forms of state power which are lawless like torture, assault, assassination and creating vigilantes.

ly if necessary. Vigilantes have disrupted communities, like Crossroads in Cape Town which was destroyed within a week in 1986 after the government had attempted to move it for years. Although this strategy is effective in suppressing opposition to the government in the short-term it will not succeed in the long-term. It does not advance the government's strategy of 'winning hearts and minds' (WHAM) and communities are either intimidated into silence or planning their revenge which leads to a violent instability with no end in sight.

This article is based on a paper called "New Policing Strategies - Co-option and Control" delivered at the UCT Criminology Conference (4-6 May 1989).



The ANC or the Government: Who are the terrorists ?

The ANC was declared an unlawful organisation on 8 April 1960 but it has many supporters and members inside the country who are loyal South Africans. Members of the ANC work in factories, offices, universities and are unemployed; they worship in the churches, mosques and synagogues; and they live in the townships, suburbs and squatter camps throughout South Africa.

This is illustrated by the current trial of the State against Tony Yengeni and 13 Others in the Cape Town Supreme Court.

The accused represent all South Africans. They are men and women, young and old, workers and intellectuals, and they portray the non-racial nature of the struggle for freedom in South Africa.

On 8 February 1989 the 14 trialists appeared in court and the state withdrew the treason charges against them. This was a victory for the accused. They have now been charged with "terrorism" and ANC activities. The case was remanded to March 1989, by which time twelve of the accused will have spent longer than a year "awaiting trial".

On 10 March the 14 trialists announced their intention to participate in the court proceedings under protest. This is an edited version of their statement:

"As for the charge we now face, we again say it is the State that stands accused. In defence of its apartheid practices, this regime has brooked no opposition. Mass democratic organisations, the organisations of the people, have been silenced and their leaders gaoled or restricted. This is called the maintenance of law and order. We call it terrorism.

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

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

It is terrorism when assassination squads, operating inside and outside this country, hunt for and eliminate opponents of apartheid.

We recall with horror the cruel, violent

The Trialists are from Accused 1 to 14:

- + Tony Yengeni - aged 34; matriculated in Alice; worked as clerk, later as a packer, unemployed presently; married to Lumka Nyamza (Accused 3)
- + Jenny Schreiner - turned 33 in prison; done a Masters in Sociology; lecturer at UCT
- + Lumka Nyamza - aged 26; worked for the South African Allied Workers' Union; married to Tony Yengeni (Accused 1)
- + Mzimkhulu Michael Lubambo - aged 37; worked at SBH Cotton Mills
- + Mbutho Richard Nduku - aged 27; matriculated in Alice; studied a teacher's course; unemployed presently
- + Mongameli Wellington Nkwandla - aged 32; matriculated at Langa High; worked at SBH Cotton Mills
- + Nthetheleli Titane - aged 28; matriculated at Langa High
- + Gary John Kruser - aged 28; matriculated in Athlone; worked for Christian Aid
- + Chris John Giffard - aged 28; masters student and lecturer at UCT
- + Sitalabocha Charles Mahlale - aged 39; keen sportsperson; employed at a community centre; assisted as a mechanic part-time
- + Alpheus Nqwana Ndude - aged 46; worked for Adult Literacy Project; married to Hilda Ndude
- + Getrude Fester - aged 36; done a BA, HDE, Masters in Development Studies; teacher at Hewat Teachers Training College
- + Zuraya Abass - aged 37; matriculated at Salt River High; worked at Molo, Songololo, children's project
- + Colleen Lombard - aged 38; matriculated at Oaklands High; administrative secretary to CLOWU; worked at Churches Urban Planning Commission part-time

and untimely deaths of many heroes of the struggle inside this country, all at the hands of the agents of this regime. This is terrorism in any language.

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

We say that it is the regime that is guilty of terrorism. It would therefore be terrorism for us to identify with apartheid, or to condone a system that forces its youth to take up arms against fellow citizens, to defend the indefensible.

Apartheid stands condemned as a crime against humanity. It has been declared a crime by the international community and has been rejected as a heresy and a sin by the religious community.

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

After our arrest we were detained under Section 29 of the Internal Security Act, a provision which is, in practice, used only against the political opponents of the regime.

It is a horrific provision and is in blatant disregard of the Rule of Law. The Security Police have not failed to take full advantage of its provisions; it enables them to operate in the dark and to extract maximum advantage to the maximum detriment of their victim.

It exposes the detainee to humanising and degrading treatment, lengthy interrogation and months of solitary confinement without even the basic mental comforts such as reading material, access to family

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Terrorism Trials

Continued from Page 3

and friends and legal representation and advice. Having undergone the rigours of section 29 ourselves, we are not surprised that political trials are characterised by a high number of "confessions" allegedly made by the accused. The courts have admitted numerous of these so-called confessions.

Some of our comrades still bear painful

The process of Section 29 and 31 detentions violate the rule of law. In South African law "confessions" of detainees are only accepted in court *if they are freely made*. Until 1977 the state needed to prove it but now the onus of proof is on the detainee. As a result most "confessions" are accepted by the court when they *should be inadmissible*. It is clear from the conditions in which Section 29 and 31 detainees are held that "confessions" are made under duress.

reminder of their ordeal; they are still receiving medical and psychological treatment.

There is no doubt that the State is using the sections as terrorist weapon: to exact a terrible revenge on opponents of the regime's sterile and outdated policies.

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

The trial was placed in camera to protect the identity of the key state witness, Mr X. The judge ruled his identity could be revealed when Bongani Jonas wanted "the world to know my identity and my views". On the second day in the stand he stated refusal to testify further saying he had waited until he was in court because he feared repercussions. Cries of "Long Live Commander Bongani Jonas" were heard as he affirmed his support for the ANC whose struggle "is a just cause". He faces a possible five-year sentence for refusing to give evidence as well as charges as an accomplice of those on trial.

During the progress of the trial the court has heard Captain William Liebenberg, head of the terrorist detection unit, deny

despite photographic evidence that he, W/O Nel and W/O Benzien tortured the accused during interrogations. He denied that he made death threats to Tony Yengeni with a gun against his head; that Bongani Jonas was refused medical care while he was bleeding and W/O Benzien stood on his wound to extract information; that he assaulted Tony Yengeni on his face and body while he was handcuffed and manacled; that W/O Benzien had placed a wet towel

over Tony Yengeni's face and a wet rubber bag over his head which was tightened until he lost consciousness; that Nthetheleni Titane was wounded during his arrest and refused medical care; that W/O Nel twisted his injured leg and threatened to shoot him with a pistol in his face.

It has become clear that the security police torture Section 29 detainees to extract information. In 1987, Liebenberg (who was a Lieutenant then) and Nel were

accused of torture in the trial of Lizo Bright Ngqungwana and 14 Others. Benzien has recently been identified as the person who shot Ashley Kriel.

In recent years there has been an increase in major trials of political activists and guerrillas, who are kept in prison awaiting trial and given harsh sentences by the courts if they are not acquitted. In 1987, 120 people were charged with "terrorism" in 26 trials and 59 were acquitted or the charges were withdrawn. Many received sentences between 10 and 20 years, and twenty people received the death penalty. In 1988 trials continued and at present there are approximately forty people on trial for "treason/terrorism" in four separate trials in South Africa.

Ms Buyiswa Jack, a fieldworker of the WPCC, was detained on 15 November 1988 under Section 29 and held for six months. She was granted R5000.00 bail and released on 12 May 1989. She was due to be admitted to hospital on 15 May to give birth. She must appear in court on 12 June 1989 on charges of "terrorism". Mr Sandile Mkhonto, another fieldworker of the WPCC, was detained on 14 October 1988 in the Transkei and transferred to Parow police station. He was held under Section 29 until 20 March 1989 when he was released. The WPCC condemns the system of detention without trial.



The ANC flag is a popular symbol to rally support at public meetings

Eric Miller



GUILTY OF 'TREASON'?



Popo Molefe, Moss Chikane, Patrick Lekota and Thomas Mathana

van Dijkhorst cited them as future political leaders he sent them to the cells claiming that the UDF had done "South Africa a disservice". The accused had already been in custody for three years and their trial was described as South Africa's "longest and most expensive". Several diplomats attended the trial, including US ambassador Edward Perkins who commented afterwards, "Court decisions which convict genuine, non-violent community leaders of 'treason' cannot be expected to command respect".

The verdict of Justice de Klerk was overturned in the second Delmas trial

when two accessors overruled his decision not to hang the four accused. Obed Masina, Frans Masango, Neo Potsane and Joseph Makhura were formerly charged with treason but these charges were later withdrawn and replaced with murder and attempted murder.

Moses Mayekiso, Obed Bapela, Paul Tshabalala and Mzwanele Mayekiso were charged with treason as a result of their involvement in the Alexandra Action Committee, but Justice van der Walt said that the evidence presented with the charge of 'treason' had "proved abortive". He said the 'treason' was "a crime in a very special category" and that such a charge should therefore "be carefully considered and carefully reconsidered before being brought". This verdict came as a surprise from the judge who sentenced Marion Sparg to 25 years imprisonment in 1986 and highlights the effect which this could have on future political trials.

In the judge's view, the state had not presented evidence to justify the charge of treason; "There is no direct evidence involving the accused or the AAC in the planning or execution of the unrest, attacks on police, resignation of town councillors or the establishment of people's courts".

The non-violent action of the accused was clearly undeserving of the charge of treason and the judge had recognised this, yet it remains that until there is a stricter definition of treason, there will be continued attempts to threaten all those in opposition to the government - whether this opposition is violent or not.

South African judges have great power in deciding the future of people in this country. Their interpretation of the law determines who is to be acquitted, who is to go to jail, for how long and who is to receive the death sentence. The recent treason trials have shown that "treason" in South Africa is not specific but is allowed to stretch to include any strong opposition to the government. In this way it becomes a crime to peacefully and non-violently work towards dismantling apartheid. The Delmas and Mayekiso trials differed greatly in the judges interpretation of "treason" with the result that some were acquitted, some jailed and others sentenced to be hanged.

In the first Delmas trial, Popo Molefe, Patrick Lekota, Moss Chikane and Thomas Manthata were accused and convicted of treason. They received sentences of 12, 10 and 6 years respectively. This means that some of South Africa's most prominent political leaders will be out of reach for an effective time. Although the judge, Justice

Policeman murdered Ashley Kriel

On July 9, 1987, youth leader Ashley Kriel was murdered by W/O Jeff Benzien, the same officer whose name is frequently heard at the Yengeni trial. The inquest into his death began last week. It is clear that Benzien pulled the trigger confessing in court, "I concede that my finger was on the trigger". The assassination of David Webster brought to 61 the number of anti-apartheid activists who have been killed since 1978. In 60 of these cases no one has been arrested or charged.



Ashley Kriel

Disguised as sanitation officers, Benzien and Sergeant Abels drew Kriel out of his house by speaking about the repair of drains. The struggle which followed ended when Kriel was shot and fell to the ground. Evidence that Benzien had a pamphlet of Kriel on his wall was admitted. Under the words, "Freedom or death - victory is certain", he had written "not for you". He denied marking the face with a cross and writing, "One down...to go".

Those who are a threat to the government have been eliminated over the years. In 1985, the UDF lost 11 of its leading people who either disappeared or were found murdered. The presence of death squads in South Africa are no threat to those who perpetrate racial violence, but to those committed to building a more peaceful South Africa.

The Ashley Kriel Inquest: July 20 & 21, 1989 at the Wynberg Magistrate's Court.



LEGAL

Free legal assistance and advice are available to those who need it but few people know that these resources operate or how to contact them. Many organisations and projects exist, aiming to educate people about their legal rights. In South Africa laws are used against the people of this country and help is needed in order to know who to approach for both advice and legal representation. This is a summary and brief explanation of resources which exist predominantly in the Cape. You are encouraged to keep this list so that you know who to contact and where.

LEAP

Institute of Criminology

UCT

Private Bag

Rondebosch, CT

Tel: 021-650 2680

Teaches organisations about their legal rights and what to do when affected by repression. Available for workshops and supply booklets on legal rights.

DEPENDANTS' CONFERENCE

Cowley House

126 Chapel Street

Woodstock

Tel: 021-45 2100

Grahamstown. Tel: 0461-26683

Queenstown. Tel: 0451-3446

Middelburg. Tel: 0483-22407

Kimberley - no telephone.

Free legal assistance for detainees and their families. Help for the family breadwinner. Accommodation and transport for visitors to prison. Counselling and advice is given where it is needed.

REPRESSION MONITORING GROUP

(RMG)

Community House

47 Salt River Road

Salt River

Tel: 021- 477230/1

Assists in tracing missing persons. Monitors arrests, detentions and police/SADF activity. Publishes "The week that was" containing latest information on detentions and related incidents. Keep records of all detentions.

THE BLACK SASH ADVICE OFFICES

5 Long Street

Mowbray

Tel: 021-689 3150

Khayeliysha. Tel: 021-361 2684

East London. Tel: 0431-43 9206,

Grahamstown. Tel: 0461-23044

Port Elizabeth. Tel: 041-54 2976

Durban. Tel: 031-301 9215

Johannesburg. Tel: 011-337 2425/9

Pretoria. Tel: 021-323 4488

Soweto. Tel: 011-984 8307

Monitors unrest related incidents and gives general information and advice to those who need it.

CRISIS RELIEF FOR THE FAMILIES OF DETAINEES

Tel: 021-637 3728

General information, legal advice and financial support; also sharing experiences with the families of detainees.

LEGAL RESOURCES CENTRE

Scott Building

41 Church Street

Cape Town

Tel: 021-23 8285,

Grahamstown . Tel: 0461-29 230

Port Elizabeth. Tel: 041-54 4125

Legal advice on community issues, not the individual. The LRC takes up issues of social and public concern eg. housing, labour, employment, transport and the residential rights of African urban workers

UNIVERSITY OF THE WESTERN CAPE COMMUNITY LAW CENTRE

Tel: 021-959 2414

Legal advice and referral to attorneys if necessary. They will run for members of the public who cannot afford legal costs.

CRISIS RELIEF

Tel: 021-637 2898

General information, legal advice and financial support specifically for detainees and unrest victims.

SOUTH AFRICAN DOMESTIC WORKERS UNION (SADWU)

Community House

41 Salt River Road

Salt River

Tel: 021-47 5145

Addresses problems which domestic workers encounter in their place of employment. Offers legal advice on unfair dismissals and wages.

ADVICE OFFICE FORUM

Melofin Building

Old Klipfontein Road

Athlone

No telephone yet.

There are several Advice Offices in South Africa which offer free assistance to people on many issues. Contact the nearest Advice Office in your area for legal advice about rent, employment, housing, grants etc. Your Advice Office will be able to direct you to a particular union and to lawyers. The address of your closest Advice Office is available from all the above resource centres as well as The Advice Office Forum.



RESOURCES

ADVICE OFFICES (Western Cape)

Atlantis Resident's Association Advice Office
Tel: 0226-218 03

Belhar Advice Office. Tel: 021-952 6691

Bellville Advice Office. Tel: 021-951 4578

Bonteheuwel Advice Office. Tel: 021-624 666

Elsies River Community Advice Office.

Tel: 021-932 6034

Hanover Park Advice Office.

Tel: 021-637 9060

Heideveld Advice Office. Tel: 021-638 3525

Logra Advice Office. Tel: 021-735 110

Manenberg Advice Office. Tel: 021-682 2515

Mitchells Plain Advice Office.

Tel: 021-32 9351

Silvertown Advice Office. Tel: 021-633 2162

Woodstock Advice Office. Tel: 021-47 8112

OTHER AREAS

People's Advice Office. Tel: 0431-21830 and 21865

P.E. Crisis Information Centre.

Tel: 041-54 3141

Northern Cape Advice Centre (Kimberley).
Tel: 0531-42852

Knysna Advice Office. Tel: 0445-24458

Middelburg Advice Office. Tel: 0483-23079

Montague-Ashton Community Service.

Tel: 0234-41175 or 42619

Oudtshoorn Resource & Advice Centre.

Tel: 04431-6741

Paarl Advice Office. Tel: 02211-32489

Stellenbosch Advice Office. Tel: 02231-74400

Uitenhage Advice Office - Tel: 0422-230410

LEGAL AID from the government

LEGAL AID is money from the government. It pays for the cost of your lawyer, and other legal costs. It is necessary to complete a "means test" in order to qualify for LEGAL AID. This means that you must not earn a lot of money. If you have more than the amount stated by the government, you will not get assistance. You can go to the Legal Aid Board or directly to a lawyer. Both will help you fill in the necessary forms and if your application is successful, the Board will choose a lawyer to do your case. You cannot get LEGAL AID for traffic offences, maintenance for your children, trying to prove who is the father of your child, divorce, criminal cases where you plead guilty and personal complaints against another person. But, if you have a strong case, you could still get LEGAL AID.

Legal Aid Officer

Protea House
Adderley Street
Cape Town
Tel: 45 5033

Legal Aid Board

Eastridge 101
Harmony Square
Mitchells Plain
Tel: 32 4131

Legal Aid Board

21 Belgravia Road
Athlone
Tel: 637 9107

In the rural areas you can go to the nearest **Magistrate's Court**. Each Court has a **Legal Aid Officer** who should help you fill in the forms. Then you will complete the "means test".

BOOKS ON YOUR LEGAL RIGHTS

Farmworkers and the Law by Rural Legal Services Project. R5 for organisations and R2 for workers.

The Law Courts and You by The Black Sash.

Many booklets by LEAP

Most organisations offering legal advice will have booklets or pamphlets to assist you.





DETAINEES: RELEASED

The Minister of Law and Order, Adriaan Johannes Vlok said, "The State cannot allow itself to be threatened by hunger strikers". Yet, the stand of those being held under Detention without Trial resulted in him signing the release of over 800 detainees. This came with harsh restriction orders which have had a crippling effect on the lives of most of those released, confining some to their homes for 20 hours of the day.

Detention without Trial allows the government to imprison a person for any length of time without charging them. Those who are detained are rarely given the chance to prove their innocence which can result in them spending up to three years in detention. The government in this way is able to halt the political activity of these people by locking them away and losing the key for as long as they decide.

But even their eventual release does not bring freedom. Dr Beyers Naude who was severely restricted for seven years to the

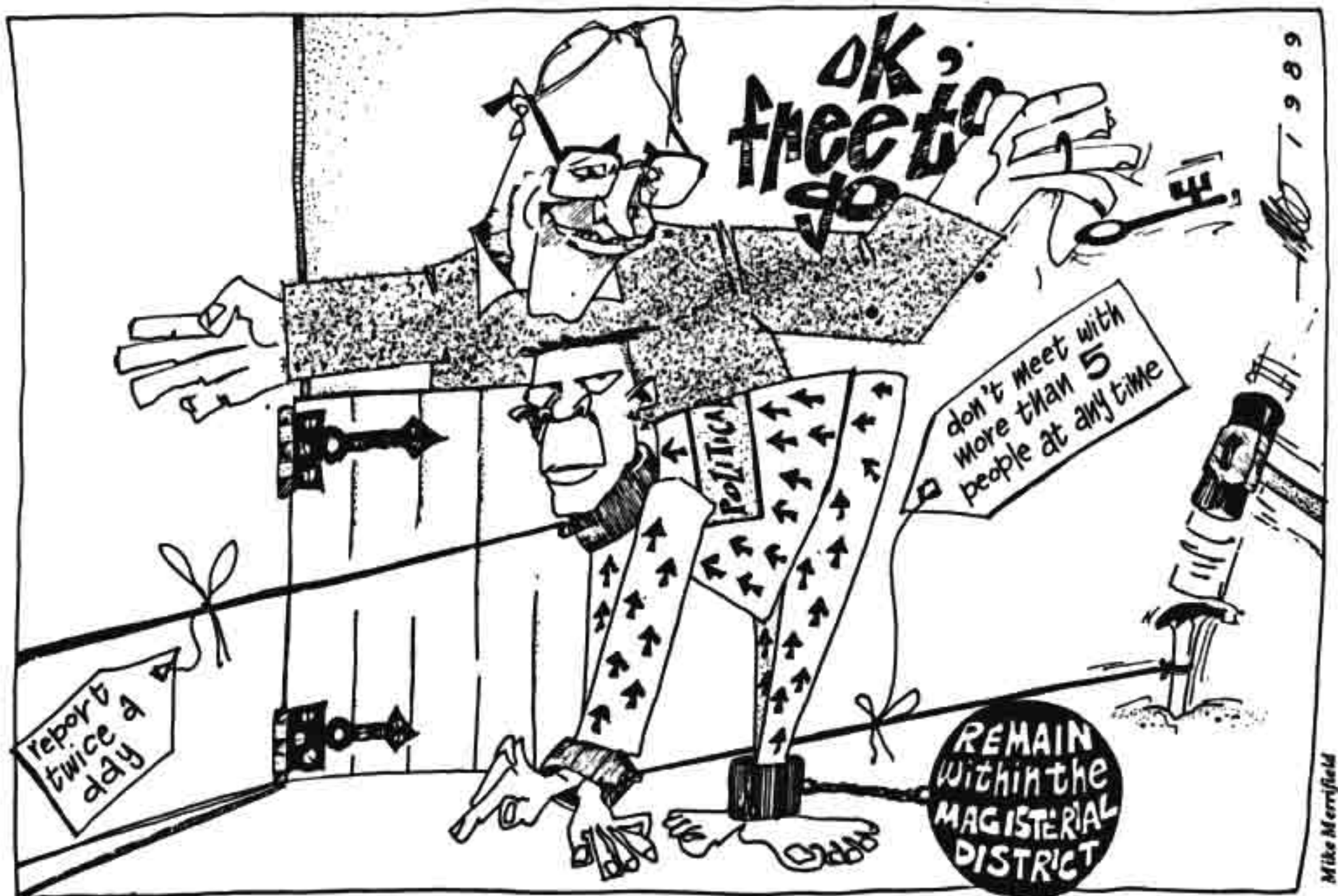
extent that he was not allowed to meet more than one person at one time, said, "Restricting people is evil in every respect and can never be justified on any grounds. You are forced to police yourself at all times. Always afraid the security police will pounce, you are forced to withdraw from society. Restrictions are not only evil, they are the cause of much trauma and pain and suffering".

The government says that restriction orders are issued in the interest of "public safety". If "public" does not mean society as a whole, but 'the white minority' or 'the ruling Nationalist party', then "safety" is seen only to serve the interests of these groupings. Restriction orders seem to have little to do with "public safety", but instead with interference in a person's private, political and family life.

Happiness on hearing that certain detainees are to be released is always dampened by the question, "What are the restriction orders?" Trevor Manuel, the

UDF's Western Cape Secretary and National Executive member was released from detention on February 17 1989 with severe restrictions. He was released on July 7 1986 from his first detention but was detained on August 15 1986 only one month after his release. During his detentions he was only able to see his two children through a glass barrier. His restrictions include house arrest from 6pm to 6am, being confined to the Wynberg magisterial district, not being allowed to address more than 10 people, not participating in the activities of the UDF or CAHAC and being prohibited from attending gatherings where the government and local authorities are criticised. In addition, he has to report to the police twice daily, between 6 and 9am and again between 3 and 6pm. Trevor Manuel was prohibited by his restrictions from speaking to Crisis News.

Hilda Ndude (released July 7 1988) and Willie Hofmeyr (released October 6 1988) also live with severe restrictions which prohibit them from participating in their





BUT NOT FREE

organisations. Mrs Ndude has five children, the youngest of which went with her to Pollsmoor, but only stayed one day due to the extreme cold. The family are living without a father or husband, Alpheus Ndude who is presently in prison with the Yengeni trialists. Being restricted to her house between 7pm and 6am it is impossible for her to leave the house at night should her children be sick. Both Hilda Ndude and Willie Hofmeyr were prohibited by their restrictions from speaking to Crisis News.

Amy Thornton was allowed to speak about her restrictions which she referred to as "mild". She may not participate in the UDF, of which she is a patron, UWCO, a founding member and Cape Democrats, the chairperson. She said "not being able to participate in organisations which are very meaningful to you and especially where you've been elected by the members to office" angered and frustrated her. She spoke of those who are severely restricted saying that "it is an exchange of one prison for another and we find ourselves in a position where we have got to be grateful. I am resentful that I have to feel grateful".

Consumer boycott spokesperson, Mkhuseleli Jack and UDF regional vice-President, Henry Fazzie were released in Port Elizabeth on May 16 1989. They had been in detention for almost three years. Both are restricted to the PE magisterial district and may not be present at any gathering of four or more people including themselves. They have to report to the police twice daily and are not allowed to speak to journalists. These restrictions forbid them, as they do others from living a life free from the constant watch of the government.

Two activists recently released in the Transvaal, Octavia Magunda and Sam Semetse have been restricted to their homes for 20 hours of the day from 2pm to 10am. Within the four remaining hours they have to report to the police twice. House arrest is the government's answer for depriving people of their right to move freely in their own country. Thembinkosi Dlamini, a Durban detainee was asked by police to be an informer but when he refused he was given severe restriction orders on his release. He

is also under house arrest for 20 hours of the day and has to report to the police twice a day. In order to get there in time, he has to take a bus, a taxi and a brisk walk. This is not only expensive but is also difficult on Sundays and public holidays. People under house arrest are vulnerable to attacks because they are known to be in one place for most of the day. Youth leader, Chris Ntuli, a friend of Dlamini's was murdered under these circumstances.

Godfrey Moekoa has to travel 150 km to Gilead police station, twice a day in terms of his restriction orders. This will cost him R420 a day, not only because of the long distance but because he has to hire a taxi for himself. He has made two applications to change his restriction orders but without success. He spent 33 months in detention.

Restriction orders on individuals are in keeping with the greater control which the government attempts to impose on all those who oppose it. Fifty organisations have been banned in South Africa since 1948, most taking place in the last twelve years. Restrictions on meetings, the press, T-shirts, individuals and even funerals are commonplace in South Africa. These restrictions attempt to regulate the society in a way which benefits the minority of South Africans and deprives the majority. The restricted "Twilight People" or "The Silent Few" as they have been called are forced out of society denying them the right to participate in the planning of its future.

Amy Thornton said that restrictions are "punishment without crime". She further posed the question, "Why should I be subjected to these restrictions when I haven't committed a crime?"

HRC Update of Restrictions on 11 May 1989:

TRANSVAAL : 228
NORTHERN TVL: 17
NATAL : 111
ORANGE FREE STATE : 1
NORTHERN CAPE : 9
EASTERN CAPE : 130
WESTERN CAPE : 19
UNKNOWN : 5
TOTAL : 520

It is possible that total has increased since May 11 1989.

PRESS CENSORSHIP

In August 1987, Minister of Home Affairs Stoffel Botha announced the introduction of new Emergency media regulations which were necessary to curb "the present flood of revolutionary propaganda".

A three-stage path was instituted to silence a publication:

1. A warning.
2. A formal warning in the government gazette, after which the publication can make representation to the Minister about why he should not take the third step.
3. Either the Minister can appoint a Government Censor to vet each issue of the publication or it can be suspended for three to six months. Thus far only the option of the three months suspension has been exercised.

The first paper to be affected was the New Nation, followed by South, The Weekly Mail, New Era and Grassroots. Saamstaan, Out of Step, Al Qalam and Work in Progress have all received gazetted warnings and are on the threshold of being banned.

On 10 June 1988 further media regulations were passed which aimed specifically at restricting the public's right to information. They aimed at limiting the news by restricting the freedom of those responsible for disseminating it. The government has curbed the following rights without which there can be no Press freedom:

a. The right to start and continue publishing a newspaper (foundation rights)

b. The right to decide who may practise as journalists (practising rights)

Laws on the registration of news agencies (potentially including every publication and newspaper) which would allow the Minister to decide whose registration to accept and to withdraw registration if he wished without giving them a hearing. Widespread opposition to registration prevented the Minister from implementing it.

c. The right to decide what to publish (editorial autonomy):

Reg 3.(1) "No person shall publish ...or make...any 'subversive statement'..." The subversion regulation prevents comment on:

- "unrest" and any security action
- any opposition to a member of the government
- boycott action
- civil disobedience
- stay aways and strikes
- activities of "unlawful organisations"
- restricted gatherings
- alternative structures
- election boycotts
- public safety
- military service if it undermines it
- treatment/ circumstances of a detainee

d. Freedom of access to information

Reg 2.(1) "No journalists (news reporter... photographer, operator of television equipment etc) shall ...be at the scene of any unrest, restricted gathering or security action or at a place ... in sight".

The Minister also has the right to seize publications without prior notice, an action Crisis News experienced twice between August and October 1988.

Source - The Rhodes University Department of Journalism and Media Studies handbook "The Media Emergency Regulation, 1988, A Guide for Journalists" by John Grogan.

Thy Kingdom come...

The long history of the Jewish and Christian peoples in the Bible is characterised by frequent persecutions and imprisonment.

Prophets like Jeremiah were in and out of prison (Jer.37). A large section of the Jewish people were taken into exile as slaves; first in Egypt and later in Babylon. John the Baptist was imprisoned by Herod. Jesus was arrested and detained before he was crucified. John and Peter were imprisoned by the Roman sanhedrin. Paul, whose utterings in Roman 13 are sometimes used by the state to call for uncritical obedience to governments, was imprisoned and placed under house arrest for two years (Acts 28). He wrote many of his letters from prison. For the early Christian martyrs, imprisonment, torture and death were an accepted part of a faithful and dedicated life.

In some cases these Jewish and Christian people were charged, tried, imprisoned and executed. Others like Jeremiah were detained without trial or, like John and Peter they escaped from detention.

Why were so many of the most dedicated and committed leaders thrown into prison?

These believers were disciples in the service of the Kingdom of God, which is the theme central to the Bible and to the preaching of Jesus. God's kingdom has to be established on earth, as it is in heaven. It is a kingdom which is reigned by justice, freedom and peace. The Kingdom of God opposes all earthly kingdoms which are reigned by terror, injustice, oppression, exploitation and discrimination.

The commitment of these people to the Kingdom of God, put them into direct conflict with the powers of that time. Throughout the Bible, from the prophets to the early church, believers spoke out against the oppressive ideology of a ruler or ruling class. The result was an attempt by the state to silence those who would not conform or keep quiet.

The attitude of these persecuted people was one of expectation rather than indignation. Persecution, detention and death were to be expected. The clash between the person of conscience and the authorities is seen as inevitable where the powerful will silence and crush the powerless. This is taken for granted.

Jesus warns his followers about the persecutions which they must learn to expect if they choose to follow him:

"They shall lay their hands on you, and persecute you, delivering you up to the synagogues, and into prisons, being brought before kings and rulers for my name's sake... You shall be betrayed both by parents, and brethren, and kinsfolks, and friends; and some of you shall they cause to be put to death". Luke 21: 12 & 16.

Jesus' advice to the people in such circumstances is: Don't be afraid of them, your endurance will triumph (Matt 10:26-31) and Your hope will not be disappointed, justice and truth will triumph.

Likewise in South Africa, people have sacrificed themselves in the name of justice and freedom. Amidst detention without trial, imprisonment, executions and torture, committed Christians have looked to Christ for liberation. The message of Christ is not exclusive but available to all those striving for peace, justice and freedom from oppressive laws and rulers. As Christians we cannot listen to those who persecute people for the sake of their own power, but we must look to Christ who worked with the poor and the oppressed.

The Bible says that a ruler "is God's servant for your good" (Romans 13:4) but in South Africa the Christian is faced with a situation where s/he can no longer say that the rule in this country is good for the majority of the people. All Christians have a moral obligation to resist all laws that uphold apartheid, for it is these laws which have caused the suffering and death of so many.

The stand taken by Jeremiah, John, Peter and others serves to remind us that we must be strong in resisting oppression and that Christ will maintain our strength. The struggle is to ensure the formation of the Kingdom of God on earth as it is in heaven so that there is peace and freedom. Christ's teaching understands the persecution which people endure and through him liberation is promised: "If you obey my teaching, you are really my disciples; you will know the truth, and the truth will set you free" (John 8:31).





UPINGTON 25 TO HANG ?

Twenty-five residents of Upington, a small Northern Cape town have been convicted of the death of a municipal policeman, through the doctrine of 'common purpose'. This means that although the accused may not have taken part in the actual killing, the fact that they actively associated themselves with the crowd means that the crowd's intention can be attributed to the accused. Any person in the crowd can be charged with murder.

The Sharpeville Six were convicted through the 'common purpose' doctrine and there have been twelve other trials since 1983 where the accused have been charged with collective violence. To apply the doctrine of 'common purpose' in the case of murder, the accused must have been present at the killing, they must have intended to associate themselves with the crowd and expressed this intention directly by their conduct.

These criteria do not take proper cognisance of extenuating circumstances which are usually only found after the judgement has been passed. *If extenuating circumstances are not found the*

judge is obliged to pass the death sentence under South African law. The sentence is not affected by the degree of participation of the accused. Moreover, in the case of the Sharpeville Six state witnesses admitted to coercion by the police to give false evidence.

As argument for extenuating circumstance began in Upington on February 1989, the court heard Professor Graham Tyson, a psychologist explain how 25 people of different home backgrounds, intelligence and personality could come together in daylight with no attempt to disguise themselves and commit a murder. This indicated that the accused had no prior criminal intent. He explained how people in a crowd experience a loss of rational behaviour thus reducing their responsibility (deindividuation) and also how they conform to one another (modelling).

Professor Martin West argued that the crowd must be judged within the socio-economic context which set the scene. The township suffered from massive overcrowding, high unemployment and low wages. The residents have problems with schooling, poor facilities, housing and rents. The meeting which led to the murder was about rent. There were rumours that Paballelo's mayor was R1000,00 in rent arrears but had not been evicted.

What happened on 13 November in Upington ?

On 11 November 1985 the residents of the Upington township, Paballelo were informed of rent increases. On 12 November a crowd gathered in the streets and four residents were allegedly killed by the police. The crowd understood the police to say they could meet on 13 November and about 4500 people gathered at a sports field. The meeting was dispersed by the police after four minutes with teargas which sounded to the crowd like live ammunition. Part of the crowd, an estimated 3000 people proceeded to stone a policeman's house. The policeman fired into the unarmed crowd and shot a eight-year old boy. Then he fled and the crowd killed him.

As a result 106 people were arrested. Eventually 32 were charged with murder, and six charges were dropped. Now 25 people have been charged with murder and one person with attempted murder. By 24 May no extenuating circumstances had been found for two of the defendants who face death as a result. The court will pass its sentence on the defendants who range from 20-63 years old, who are married and who have children and dependants.

On 19 May 1989 former Oudtshoorn riot policeman Andre Schutte was convicted of the brutal murder of Andile Kobe in George in the Southern Cape. Andre Schutte aged 20, showed "no signs of remorse but rather bravado" the judge, Mr Justice



Andre Schutte Mike Hutchings

Hannes Fagan said. He was sentenced to 12 years imprisonment, and co-accused Pieter Koen and Cornis Serfontein were each sentenced to seven years on counts of attempted murder.

Schutte was further sentenced to

Policeman Guilty of Murder

six months for two charges of assault with attempt to do grievous bodily harm, suspended for five years. Koen was sentenced to three months suspended for three years for common assault. The judge granted the men permission to petition the Chief Justice. There were gasps of horror when he awarded the accused R1000,00 bail each.

Elizabeth Qatane, common-law wife of Andile (Ace) Kobe has not been able to rest since his murder on 19 March 1989. She witnessed much of the assault and this is how she describes it. There was an altercation with a neighbour when she, Kobe and two family members were taking a short cut across his property. The police arrived and two policemen starting assaulting Kobe and the owner of the house with a sjambok and a kerie. She was also assaulted when she tried to protect Kobe.

He was taken to the police station in a van, and she arrived in time to see the police trying to drag him inside. He ran away but was recap-

tured. She was prevented from entering the police station and stood outside listening to his screams for half an hour. After a sudden silence the police emerged carrying his unconscious body and drove towards the beach. The next day she heard Kobe was in hospital where he had undergone brain surgery but he had died. His head was grossly swollen. The police say they found him on a beach near George and made it difficult for Elizabeth to fetch his body.

The judge found Schutte's youthfulness and inexperience as a policeman, his indiscretion and short-temper as mitigating in his favour. His "sadism, apparent pleasure in hurting weaker people and absence of remorse" counted against him. It emerged during the trial that he had also assaulted an old man and a woman on the same night as Andile.

The judge said "it was tragic that Elizabeth Qatane had to bury her husband on the day they were supposed to be married" Elizabeth said

"I see the picture of them doing bad things to Ace but I hope that they do not spoil the case. The police arrive to visit my house and my work. They come with cars with no registration and make my children frightened. I have lost my job after this and I have nothing to feed my children."

The judge said "What revolted society most though was that Schutte was a policeman who had abused his authority and slandered the police motto to 'protect and serve'.



Pieter Koen Mike Hutchings



"You will be hanged by the neck until you are dead"

The law courts in South Africa continue to use the death sentence as a form of so-called punishment, bringing to 117, the number of people who have been executed so far this year. There has been a steady increase in this barbaric act - 130 in 1980 to 164 in 1987, which places South Africa with the highest record in the world. The gallows at Pretoria Central Prison can hang 7 people at one time and 1 070 have gone to their death since 1980. The Black Sash book, "Inside South Africa's Death Factory" contains valuable information on the death penalty and those who suffer because of it.

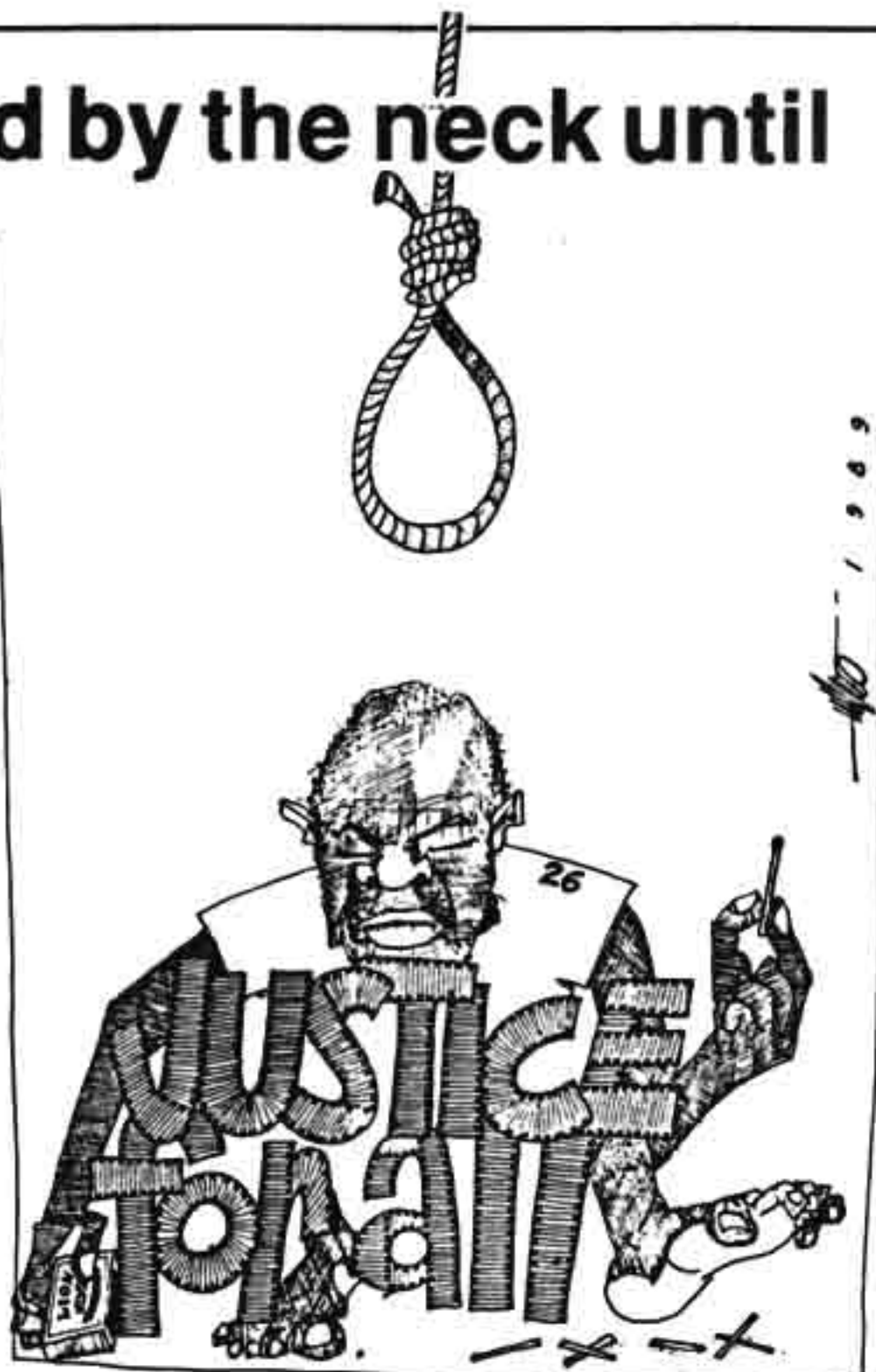
Of the 117 people executed last year, the vast majority were African (65%) and 3% were whites. The racial factor is clearly part of the judicial system. As commented treason trialist Ismael Ebrahim, "we can never regard our courts as places of justice... We cannot divorce our courts from the apartheid structures". The Delmas trialists refused to participate in their court proceedings.

The fight for the abolition of the death penalty is an issue which needs to consider the situation of the country in which we live. The Black Sash interviewed 26 friends and relatives of people on death row to construct a profile of a person sentenced to death. The research showed that the average person on death row was male, African and younger than 30. Also that he comes from a poor family and was raised by a single parent or relatives. Leaving school early so as to make money, he received no further education and found poorly-paid work as an unskilled or semi-skilled labourer.

Cases take place before a judge and two assessors, who have equal vote in sentencing. The majority of the 40 trials studied by the Black Sash were remarkably short - 33% lasted less than one week, 17% lasted two to three days and 8% lasted one day. The fact that a person can be tried, convicted and sentenced in one day questions whether the social background of the accused were considered or whether extra evidence was sought. Most political trials lasted more than a month since lawyers gave more thorough defence.

Lack of finance forces most trialists to rely on a pro-deo lawyer supplied and paid by the state. Out of the 40 cases, 32% had pro-deo lawyers who are normally junior with little experience. Because of this, the accused cannot have a fair trial. This further accounts for the shortness of the trials. Only 17% of the sample hired their own lawyer with costs running into thousands of rands.

Cases depend on the willingness of the judge to find extenuating circumstances. The Sharpeville Six were sentenced to death but Inkatha members who committed murder were sentenced to three and a half years. In South African law the death penalty is mandatory where the judge finds no extenuating circumstances. These circumstances are left to the accused to prove. Those sentenced to death have no automatic right to appeal but may apply to the trial court or the Chief Justice of the Supreme Court failing that. The



only other option is if the State President offers clemency. Few prisoners are granted bail and 50% of those in the research were convicted on the grounds of 'common purpose'.

Interviews with ex-death row prisoners reveal the cold preparations for death taking place within the walls. The measurement of the prisoners' neck and weight take place before he/she is hanged with six others. The night before each prisoner is given a whole chicken and R4 to spend at the tuckshop. Hymns sung till the last moments before the gallows are a chilling memory for those who have left death row. Families are not allowed to see the bodies of those hanged and these remain the property of the state. Only the number of the grave belongs to the family.

The death penalty is an irreversible act and a crime in itself. There can be no justice in a system where the law rests in the hands of unpredictable judges and inexperienced pro-deo lawyers, or where proceedings are not conducted in the accused's language. NS Sonamzi, whose brother has spent more than a year on death row said, "I hate the death penalty. I feel nobody has the right to instruct any person to kill another person. No matter what".

The Society for the Abolition of the Death Penalty in SA, Family and Friends of People on Death Row and Save the Patriots are campaigns which highlight the way in which the government deals with its political opponents. All peace-loving South Africans should offer their support. The Black Sash book is available for R10, at 5 Long Street, Mowbray.