

Chapter Eight

Into the Fifties: Defiance

Mass trials and mass action characterised the next two decades. The “Treason”, “Fischer” and “Rivonia” trials, to mention the most prominent of these, were among the most destructive assaults on the movement. Together with a state of emergency, police raids and arrests – and new, more draconian legislation – they played their part in weakening the liberation movement organizationally. One curious effect of the frequent court appearances and the quaint antics of our lawyers was to make arrest, detention, court appearances and court-speak part of our political culture: “Yes, your worship”, “no, my lord”; “it’s a convenient moment for an adjournment your worship”; “with the greatest of respect m’lord” – the latter implying that counsel intends to drive a bus through m’lord’s reasoning. These incredible, archaic expressions of reverence and infantile regression peppered our speech and made the dour proceedings bearable. For some of us on trial, words and phrases like “quashed”, “expunge from the record” and “my learned friend” became ridiculous embellishments of our daily banter. More usefully, the logic of legal argument, the different approaches of counsel to the cross-examination of witnesses – most of the latter spurious, some of them truthful – were simultaneously educational and entertaining.

Impressions of the elegance of our lawyers – Issy Maisels, Vernon Berrange and Bram Fischer; and some of the younger barristers – Mahommed Ishmail (later Chief Justice in the new dispensation after 1994) and Denis Kuny, have never left me. Nor have my memories of the less-experienced counsel in the 1956 Treason Trial, whose attempts at cross-examination fizzled out almost as soon as they began their interrogations. On occasion during this trial, there was a faintly audible “phzzzzz” from the seat next to me (Leon?) when the interventions of (junior) counsel ran out of steam. But they invariably rallied and went on to the assault, cutting their teeth professionally on interrogating the incompetent informers and “crown” witnesses who gave evidence against us. Some of these barristers are now on the other side of the bench, serving as judges or advisers in our new democracy. I did not know Arthur Chaskalson then and George Bizos, a school friend, was still in his early career. These were not exactly halcyon years – far from it – but in retrospect they were golden times compared with those still to come. Solitary confinement and physical abuse and long prison sentences were challenges we had yet to confront. I doubt whether anything is likely to serve as a proper preparation for these.

Context for Defiance

The decade opened with a wave of anti-communist legislation in which South Africa proved to be prominent but not alone. From the end of 1946 onwards, the Cold War created an atmosphere of “anti-red” repression in which the US introduced a Subversion Control Bill, which we understood provided for the internment of potential spies and saboteurs in time of war, invasion or insurrection.¹ The bill, subsequently tamed, became the Communist Control Act of 1954 used by the Eisenhower administration against labour unions. By that time however, the McCarthy repression had generally crippled the Left as well as the trade union movement and wrecked the lives of many liberal minded Americans.² In the United Kingdom a less draconian bill than the US version was mooted immediately after the war but did not materialize, while in Australia, Menzies promised to renew the Communist Party Dissolution Bill, which had been rejected in 1946. Like the other anti-communist legislation, the South African enactment of the Suppression of Communism Act in 1950 had all the rhetoric of combating communism, but was overtly a step towards eliminating the most outspoken opposition to its plans. It was a prelude to the creation a neo-fascist republic that would serve the minority white population. As a first step, this task was left to the liquidator, whose task under the Suppression of Communism Act was to ban the former members of the CPSA and those suspected of encouraging any of the objectives of communism, as dubiously defined in the act.

Since this official gave no indication of the evidence that informed his decisions, and the data-base of listed communists came from the files of the special branch of the Criminal Investigation Department of the police, it was practically impossible to challenge a banning order with much hope of success. It was only a matter of time before the axe would fall, forbidding listed persons from speaking or attending meetings or continuing to work openly in their organizations. Failure to comply with the minister’s order in the early stages of the NP government meant at least a year’s imprisonment (and a maximum of three) without the option of a fine. At the political level the evasion of a banning order involved an entirely new style of operation that was clandestine, risky and organizationally destabilizing, as we learnt to sight-read the situation and duck and dive from police surveillance. After hastily passing the act the government chose to bide its time and apply the legislation strategically, whenever it felt most challenged: at the height of a Congress campaign or at a point when its fascist programme was most threatened. It was then, in the name of combating Communism, that persons on the liquidator’s list were ordered to resign from the public bodies to which they belonged, whether their organizations were trade unions or cultural organizations or nationalist movements such as the Indian and African National Congresses or those formed by Coloureds and whites a little later in the decade. The activists fingered by the liquidator at first quite often carried on as before, thinly disguising their defiance of the minister’s orders. There was a brief

period of non-compliance but after that the need for leaders who were available and out of gaol, able to think creatively and raise the level of struggle, encouraged them to be more cautious.

The way forward did not come in a blinding flash of light. The policy of boycott formulated by the ANC for its Programme of Action in 1949 and officially still in place, offered no real alternative to the state's suppression of political rights. *The Guardian* became an increasingly important forum for the dissemination of information and policy. Its editorials, attributable mostly to Brian Bunting, but reflecting the views of the Party after it was reconstituted in 1952, offered a practical and positive way forward. It was argued that it was all very well "to absent [oneself] from dummy institutions, to refuse to collaborate, to refrain from voting in an election ...",³ but the fight for full and equal rights had still to be fought. The boycott could not be an excuse for withdrawal from the struggle by boycotting everything. "This was a policy of ... inaction which could only lead to further loss of rights".⁴ It was appropriate that the boycott of the NRC, the Advisory Boards and the Bhungas (rural councils) be accompanied by a programme of action to advance the struggle for the achievement of democratic rights. This led the leadership, some more intuitively than others, to consider a more confrontational approach than that of boycott. Mass action was more threatening to the regime; a strategy that would leave the ruling party exposed where it was terminally vulnerable in view of its narrow support base. The challenge for the movement was to turn this reality to its political advantage, bringing together all the black sections of the South African population to oppose the white minority regime on what the ANC described as a programme of action "based on the human rights of all social groups, in consonance with the United Nations' Charter".⁵ For this a national convention was mooted.

Events, however, did not pan out that way. The first responses to counter the slew of repressive laws at the beginning of the 1950 were confined to calls for the abolition of the pass laws, the cessation of police raids and the repeal of the new fascist measures (among them the Population Registration Act, new labour regulations and pending legislation on "Group Areas") that took the country several steps closer to what Dadoo called, "the tyranny of a Broederbond Republic". Something more imaginative and militant than a convention or an ordinary campaign was needed to contain the pace of the government's assaults. A programme of civil disobedience was eventually proposed to counter what J.B. Marks described as "constitutional fascism". "What Hitler had achieved by a putsch South Africa was getting through constitutional parliamentary voting", he said.⁶ One can scarcely comprehend the struggles of the 1950s outside this context of democratic decline.

The provocations were extreme and fascist bills were churned out at a breathless speed, each piece of legislation more mean than the last. Kotane, speaking in protest against the country's slide towards fascism wrote with uncharacteristic exasperation: "the

National Party stood for a totalitarian fascist republic ... that would be ruled by a president who could be directly and only responsible to God".⁷ It was 1950 and he was referring to the new racist legislation, in this case the Population Registration Act, enabling government officials to play God and classify (and declassify) people according to what officials perceived to be an individual's ethnic identity. All this was "to make it easier for the government to force its apartheid policy on the country".⁸ We boycotted registration under the so-called "Classification Act" during its long implementation stages, until it was no longer possible to evade compliance. The Population Registration Act was the centre-piece of the legislation that made the social engineering under Verwoerd possible, and preceded the more profoundly fascist Group Areas Act that would herd the population like cattle into ethnic ghettos and set off a series of forced removals.

The Group Areas Act came into effect on 30 March 1951 soon after the Classification Act. It immediately became a target for mass action although with one exception, no Group Area had been declared by 1954. A Land Tenure Board was set up in terms of the act and had already held sittings in different centres for the setting aside of separate areas for various racial groups.⁹ The whole of South Africa would in time be converted into a controlled area and no-one (without the permission of the minister) could sell, buy or lease land from a person of a different population group. Previous governments had segregated black and non-black members of the population by formal and informal means since the beginning of the nineteenth century, but the 1950s race laws segmented the country's dissection into exclusive ethnic ghettos to the extent that today these residential divisions remain one of the most entrenched features of the apartheid era. Although this was not the genesis of segregation it formed the concept of "apartheid space" as the country's division into racial zones became known as after 1950. These racially separated residential patterns continued after 1994 when Mandela took office, this time not as a result of race laws, but of poverty, an enduring consequence of apartheid.¹⁰

Threatening as it was, the "Ghetto Act" was only one among many of the provocations that motivated the movement towards mass action. Jews, Indians and black workers were all under attack. The Ossewa Brandwag had previously debated whether Jews should have citizen rights¹¹ and the Afrikaner Party called for the repatriation of Indians whom they referred to as "an undesirable and outlandish element in South Africa".¹² They said this despite the fact that 95% of the Indian population at the time was born in South Africa. Immigration had almost completely stopped and only the families of domiciled Indians – and a small number of teachers – were allowed to enter the country under the amended Immigrants Registration Act of 1913.

On the trade union front, the leaders of the more conservative white trade unions had formed a new trade union federation to bar any unity between black and white workers. Meanwhile the Trades and Labour Council from which they had seceded, hitherto widely

supported by communists, formed a “Unity Committee” which tried to find a formula to bring the seceding unions back into the fold. But despite the efforts of the communist members of the council, the formula it adopted was an accommodation with the conservative trade union leadership, in which the Council’s constitution was to be restricted in membership to the (white) trade unions already permitted registration under the Industrial Conciliation Act. Meanwhile the black trade unions (prohibited from registration under this law) were to be provided with a parallel organisation of African trade unions under the framework of the Council’s newly amended constitution. In the end, the dissident unions did not return to the Trades and Labour Council (TLC) nor did the black unions accept the compromise. Gana Makabeni, chairman of the Council of Non-European Trade Unions (CNETU) who did not suffer racists lightly, unequivocally told the compromising unions that their decision was unacceptable, adding coldly that “[it] is an astonishing thing that the TLC should take it upon itself to come to such a far-reaching decision ... without first consulting us and asking if we wished to be organized in parallel trade unions”.¹³ As it turned out, the position taken by the leaders of the registered “white” unions further increased the sense of African isolation and hastened the mass mobilization of black workers.¹⁴

Africans, however, were not the only ones to feel alienated. The proposed removal of the Coloured voters from the common voters roll similarly antagonised the Coloured people. Everything the apartheid regime did added to the disaffection of whole sections of the population, pointing towards the need to bring the related struggles together to unite the resistance around a focused programme of what the ANC described as “mass action”. It was much more sensible for the ANC and South African Indian Congress (the SAIC), now often working together, to cooperate closely. The alternative to this was to conduct separate struggles on every piece of reactionary legislation which would have the negative effects of stretching resources, dissipating the movement’s energy and leaving it without focus or clear strategic direction.

A national organization of the Coloured people was soon to join the ANC and SAIC in opposing the apartheid government. The regime’s intention to transfer the Coloured voters to a separate voters’ roll prompted the establishment of the Franchise Action Council, leading later to the formation of a national organization, the South African Coloured People’s Organization (SACPO). Margaret Ballinger, native representative in the House of Assembly (belatedly) sensing an emergent fascism, aptly described the government’s move against the Coloured voters as a product of “a narrow, tribal oligarchy [who] have used [their] position ... to lay the foundations of another system, another way of life”.¹⁵ The Franchise Action Council (in an attempt to arouse political consciousness among the Coloured people) mounted a political strike on their own in the Cape. They chose six heavily populated Coloured areas where they stood their ground

against the government.¹⁶ Despite Malan's description of the strike as a "successful failure", 95% of the shop owners closed their premises on that day and 60% of the school children stayed at home. Whatever the accuracy of these numbers, clearly many workers absented themselves from work – despite the bullying by the national newspapers and threats of loss of pay and dismissal.¹⁷

In addition to these, the new laws on urban employment and residential status introduced in May 1951 prompted the resistance the regime feared. Collectively, the 40 clauses of the Natives Laws Amendment Bill read like a manifesto of civilian terror, further tightening harsh laws and abandoning due process. Every new restrictive act was proof of this. The new urban African legislation passed by an exclusively "white" parliament was certainly legal and constitutional, but not legitimate. It was probably more stringent than anything in Nazi Germany. Under the new legislation an African person could be prosecuted for remaining in an urban area for more than three days without a permit or for more than a fortnight if the permit was to seek work. The legislation may have reinforced the ruling party's illusion of "white" cities in which blacks were at best temporary wage earners, but it created havoc among the black urban population. A man's right to stay in an urban area was valid only if he obtained a job and as long as that job lasted. He was "tied hand and foot to his boss" and thrown out of town if he was fired or if for some reason, the job was lost.¹⁸ Men bore the brunt of these laws but women were also caught up in the consequences when the legislation was infringed. Due process and the rule of law were tenuous and the minister could imprison an "offender" without a trial or "perpetually" banish him without a hearing.¹⁹ Under the legislation, the governor general (in reality the Minister of Native Affairs) had the power to divide and alter entire boundaries or remove a so-called tribe or a portion of it (or a single African) from one area to another. The regular infringements of the rule of law, the further tightening of harsh laws, the residual presence of an independent judiciary and the exclusively white legislature led Kotane and Marks to describe the system as "constitutional fascism". Every new restrictive law aimed at curbing political protest was proof of this. Heavy penalties applied for contravention of these orders, all of which made the idea of constitutional fascism seem an apt description of the apartheid political system.

The Suppression of Communism Amendment Act was another of the constitutional assaults on the country's lop-sided democracy. This act addressed significant democratic rights left untouched by the Suppression of Communism Act, passed in 1950. It provided for the banning of a newspaper or periodical because (according to the act) they served mainly as a means of expressing communist views. Under this amendment, *The Guardian*, *Advance* and *New Age* newspapers – frontline organs of the liberation movement – were subsequently banned. The amending legislation also re-defined Communism and made the law retrospective to 17 July 1950, the date of the original act's

promulgation. In this new law, the finer points of political diplomacy were shed: a communist was now one “who at any time before or after the commencement of the Act” – in South Africa or abroad – “advocated or encouraged the objects of Communism”. In the case of the Communist Party the amending act applied “irrespective of whether or not [the Party] had been dissolved”.²⁰ This virtually defeated an important part of the rationale for the CPSA’s self-liquidation and made us all vulnerable to the act’s penalties.

Until then no action could be taken against anyone for activities related to being a communist before 1950. This had now changed at the stroke of a pen. The rule of law was in fragments. A parliamentary committee could notify a properly elected member of parliament, a senator or member of a provincial council that he or she was no longer a member of that body. The same parliamentary committee could also disbar a person from office if it declared him or her to be a communist – whether or not that person had been listed by the liquidator or convicted by a court for the “crime” of Communism. The will of the voters could virtually be dispensed with by the decision of a committee, as in the case the expulsion of Fred Carneson, member of the Western Cape Provincial Council and Sam Kahn the member of parliament for the Cape (West), both of them popularly elected and now early victims of this measure. Always with a ready witticism to hand, Kahn spiced up the debate on the bill, commenting:

There are ten clauses in all. They do not seem to have been thought of or conceived by one single mind. Clause one and two seem to have been drafted by Adolph Hitler. Three and four are obviously Goebbels’; five and six are in the handwriting of Mussolini ... the whole by the Spanish Inquisition, with the approval of J. Edgar Hoover of the FBI.²¹

His words were drowned out by the catcalls of the nationalist MPs but his point was made anyway. Earlier, he had summed up the bill with the caustic comment that “a communist is now anyone who after the commencement of this Act, whether within or outside the Union, in sickness or in health, in this world or the next, for better or worse, advocated or encouraged the aims and objects of Communism”.²² The third reading of the bill was passed in the House of Assembly in July 1951. Later the minister used his draconian powers of excommunication to exclude Brian Bunting, Ray Alexander and Len Lee Warden from office, despite the fact that all of them were elected with overwhelming majorities to parliament.

Another piece of legislation that provided the context for the Defiance Campaign was the Bantu Authorities Bill, marketed to the nation as a new dispensation for chiefs and urban leaders. It extended the ruling party’s version of black government to the rural areas, cities and towns. It provided for un-elected councils, boroughs, local boards and village councils, and endowed them with the label of “Bantu Authorities”. These bodies

would be split into wards in which the people would be of the same ethnic group: where their leaders were expected to think of themselves “not as [South] Africans but as representatives of their ethnic group”.²³ The chairpersons of the Bantu Authorities would effectively be appointed by the minister, and so would its members – “after consultation”. In the words of the ANC they would be completely subservient to the government. In effect, the government hoped to transfer its responsibility of administering its repressive laws to Africans themselves. These new authorities would have executive powers whereas the old township boards were simply “advisory”. The impact of this was that the councils were to do all the dirty work of collecting rents from marginalized residents; administering laws relating to overcrowding; preventing unauthorised occupation of houses and the construction of shacks, and allocating housing where the need was so great that every decision was seen by residents as arbitrary.

P.R. Mosaka, a member of the NRC (which the bill abolished²⁴) said the legislation provided for an extension of the machinery of the Native Affairs Department (NAD) to areas it had not previously reached. It was, in his view, just one more attempt “to keep down ‘agitation’ among Africans”. In its application to the rural areas, Walter Sisulu described the legislation as part of the government’s intention:

to bluff the African chiefs into believing that it restored to them the powers they enjoyed before the coming of the white man ... [while placing them] ... in a position which would evoke the antagonism of their people and undermine their prestige.²⁵

Along with the government’s provisions for stock limitation (the culling of cattle) the regime’s implementation of the Bantu Authorities Act was a serious rural grievance. Sisulu seized on the legislation to link together the rural and urban struggles and to unite the country in mass action against what was in truth a neo-Nazi regime.

The Campaign of Defiance against Unjust Laws (1952) and the call for a Congress of the People (1953–55) had their genesis in the opposition to this spate of reactionary legislation. While this resistance did not stop the country’s transformation from segregation to apartheid, it delayed it and increased the opportunities of the congresses to mobilize the masses at a time when one would have expected them to be reeling. The first campaign of nationwide resistance to the “entire apartheid system and all other discriminatory laws”, was suggested by the Franchise Action Council in June 1951, initially formed to oppose the removal of the Coloured people from the voters’ roll. The ANC, however, had something more potent in mind – a campaign akin to civil

disobedience, including a general strike against the torrent of reactionary legislation. Later, the ANC's approach was more open-ended. It diplomatically invited the other national movements to join in a dialogue with it "to discuss methods of direct action" against what it referred to as "the government's aggressive laws and policies".²⁶ The Group Areas Act and the whittling down of franchise rights as well as stock limitation in the rural areas were listed as the major offending laws, but the selection of these was soon extended to include the legislation on Bantu Authorities, the Suppression of Communism Acts and the wide-ranging pass laws.²⁷

Despite the harsh nature of other legislation, the pass laws were the most immediately oppressive. Every day in 1949, as many as 2 7000 prisoners were apprehended under the pass laws, a significant increase over the previous year.²⁸ Many of the men from the private jails outside the urban areas in the former Eastern Transvaal became "slave labourers" on the maize and potato farms, victims of what J.B. Marks described, as "the heartless pass laws and compulsory endorsement out of the urban areas".²⁹ They were therefore high on the list of unjust laws. The ANC took the lead in convening a joint conference of the executives of the SAIC and the Franchise Action Council (FAC). The purpose of the conference as the ANC quaintly phrased it, was to consider "a direct line of action in the light of the present trend of events in the political field". The delegates gathered in Bloemfontein in the former Orange Free State, on 29 July 1951. The mood at the conference was upbeat. James Moroka welcomed the representatives, after which "delegate after delegate got up to emphasize the urgency of an immediate struggle".³⁰ As expected, it was decided to embark on an immediate mass action campaign for the repeal of the pass laws, Stock Limitation, Group Areas, Separate Representation of Voters, the Suppression of Communism and the Bantu Authorities Acts. By all accounts the action would be of "historic proportions" unlike any other previously waged by the ANC or the SAIC. Although the mood was euphoric, the delegates made some very practical organizational decisions, including a proposal to conduct a joint planning council of the ANC, SAIC and FAC to coordinate the campaign. There had previously been unity in action, but not by means of any interlocking structures. This was a significant departure from the past.

The report of the joint executives of the three organizations was adopted by the ANC at its annual conference in December 1951 and it agreed to launch a campaign of mass action in the following year "for the redress of the just and legitimate grievances of the South African people". There was a sense that this was path-breaking action which "would change the course of history in South Africa". The announcement of the outcome of the conference was combative and indicated the seriousness with which it viewed the confrontational direction the struggle was taking. "All people", it declared,

irrespective of the colour of their skin, who have made South Africa their home are entitled to live a full and free life. Full democratic rights with direct say in the affairs of the government are inalienable rights of every South African – rights which must be realized now if South Africa is to be saved from social chaos and tyranny.³¹

The ANC explained that it was a struggle not directed against any particular race or national group but against the unjust laws which kept vast sections of the population “in perpetual subjection”. The statement was made as much for the ears of government as for the liberation movement’s own supporters.

What followed was the toughest challenge the ANC had ever laid down to government. It did not use the words “non-compliance with the law” or “civil disobedience” which had overtones of civil disruption that might contravene the Suppression of Communism Act, but its message nonetheless conveyed everything the regime did not want to hear. “Mass action”, the ANC explained:

would take the form of committing breaches of certain selected laws and regulations which are undemocratic ... and repugnant to the natural rights of man. Rather than submit to these unjust laws, those taking part in the ... action will defy them deliberately in an organized manner and will be prepared to bear the penalties.³²

The form the struggle would take would be one of organized defiance “*for the repeal of these laws*”.³³ In the rural areas the people would be mobilized not to cooperate with the authorities in the culling of cattle and other livestock, while in the urban areas, ANC volunteers would go into action against the other discriminatory laws, foremost of which were the pass laws. The volunteers of the SAIC were deployed in defying provincial barriers; apartheid regulations in post offices and railway stations; and the Group Areas Act. The FAC would similarly direct its membership to defy the “whites only” regulations in post offices, railways, stations and trams. It declared that the campaign would be “based on non-cooperation against certain specified unjust laws ... unless these are repealed by 29 February 1952” – auspiciously a leap year.³⁴

In conveying this ultimatum to Malan, Walter Sisulu the ANC’s secretary-general and Moroka, the president, made it clear that the campaign was against the system, and not against the “white” section of the population. “The struggle”, the ultimatum read, “[was not directed] against any race or national group” but against unjust legislation. “The restitution of democracy, liberty, and harmony in South Africa are such vital and fundamental matters that the government and public must know that we are fully resolved

to achieve them in our lifetime.”³⁵ Unlike other attempts to communicate with the government, this one was not ignored.

Quite unexpectedly Malan replied to the ANC’s ultimatum, albeit in the most arrogant and authoritarian tone. He interpreted the demand for the abolition of discriminatory legislation as a demand for miscegenation and the “development of a completely mixed community”. He would never allow non-Europeans “to have executive power over Europeans”. Equality was sacrilegious:

It is self-contradictory to claim as an inherent right of the Bantu, who differ in many ways from the Europeans, that they should be regarded as not different, especially when it is borne in mind that these differences are permanent and not man-made.³⁶

Echoing Smuts, his predecessor, he reminded the ANC – with the same sophistry as the former prime minister – that discriminatory laws were largely protective and that the blacks would be at a hopeless disadvantage if they were thrown into open competition with whites. Moreover,

[s]hould the ANC embark on their programme of defiance [and] incite their followers to defy law and order ... the Government will make full use of the machinery at its disposal to quell any disturbances and thereafter deal adequately with those responsible.³⁷

Undisturbed by this, the ANC issued a statement, saying that it would redouble its efforts for the attainment of full citizenship rights and that it had every intention of conducting its campaign in a peaceful manner. On Malan’s insulting reference to the permanence of racial difference, it dismissed the statement with contempt and refused to be diverted from the main thrust of the campaign’s message: “The African people would yield to no-one as far as pride of race is concerned.” The question, the ANC responded:

is not one of biological difference, but one of full citizenship rights which are granted in full measure to one section of the population, and completely denied to the others by means of man-made laws artificially imposed, not to preserve the identity of Europeans as a separate community but to perpetuate the systematic exploitation of the African people.³⁸

The statement also attacked the legislation on land, “native” administration, the Bantu Authorities as well as the draconian Natives Administration Act, none of which was designed “to protect the African or provide enlightened administration of their own affairs”. The SAIC similarly rejected the National Party’s attitude to the Indian people as

“a foreign and outlandish element”. In a letter to Malan, Yusef Cachalia, Y.M. Dadoo and D. Mistry (all of them prominent national figures and early volunteers in the campaign of defiance) committed their organization to the action and – in a display of congress solidarity – declared that the SAIC would join with the Africans in protest meetings and demonstrations in the prelude to the launch of their joint struggle against discriminatory laws.³⁹

The enormity of the proposed campaign was apparent to the congresses, but the likely consequences beyond the imposition of prison sentences for defying the unjust laws was not articulated. They probably had not clearly contemplated the likely rigour of the state’s response to any campaign of mass action. Serious defeat was certainly not envisaged. There was a feeling that it was the end of the road; that “as a defenceless and voteless people ... [there was] no other alternative but to embark upon a campaign against all these discriminatory laws.”⁴⁰ Besides, the moment seemed propitious and there was still space for protest, although the gap between what was legal and illegal was closing as fast as the rule of law was receding. The regime was being challenged as much as it was being tested.

The truth of the matter was that whatever the form of resistance, it would invariably draw a predictable response from government; it would either react with overwhelming force or resort to the repressive legislation at its disposal. It had the power to immobilize the organizations, remove the leading individuals from their positions, introduce harsher laws or similarly amend existing legislation to make them even more draconian. It could also “deport” individuals to unsocial and arid places, or still worse, violently disperse the peaceful batches of men and women who volunteered to defy the petty racist regulations. As it happened, the government did all of these, except the last, although there was some provocation that had a violent outcome in the Eastern Cape. Even then, the idea of non-violence was so strongly asserted by the liberation movement that it had become a “principle” shed only with the utmost circumspection.

It was not a moment for equivocation and it is only with hindsight that one wonders at the lack of apprehension (felt but possibly not expressed) at the possible backlash from the regime. There was overwhelming enthusiasm for the campaign of “organized defiance” but it was not without its critics. One of the few dissenting voices within the movement was made by H. Selby Msimang, a founding member of the South African Native National Congress (the forerunner of the ANC) and one of the oldest members of the ANC, but not one of the most radical. He was then the regional ANC secretary in Natal and was present at the 1951 national conference when the decision to “defy” was taken, but did not raise any objections at the time. Later, he wrote to the ANC outlining his

points of disagreement. It was a pity that he did not state his objections at the conference, as his intervention would have encouraged further debate on the strategic direction of the campaign, the nature of offensive and defensive action, civil disobedience and the style of the proposed action. "Responsible men" he subsequently wrote to the ANC,

do not declare war unless they have assembled their forces and equipment because it would be suicidal and sheer lunacy to invite the enemy to action without the means of defence or power to attack ... [The] Conference seemed to have fallen into the hands of men and women carried away by a powerful current and in desperation resolved to go under with the entire race ... Civil disobedience is a spiritual weapon ... It involves a personal sacrifice ... the result of assiduous indoctrination of the individual not the mob.⁴¹

There is no record of a formal reply to H. Selby Msimang, but his concerns, whatever insinuations they carried, were important.

In a similar vein to Msimang *The Star*, a newspaper that supported the Chamber of Mines, wrote: "This is an artificial agitation fostered by false slogans, kept going by methods alien to the spirit of the great bulk of the non-Europeans in the Union. Whatever legitimate grievances [they] may have, they are not to be addressed by the systematic encouragement of law-breaking."⁴² The thesis was that if the defiance movement grew it would make matters worse and play into the hands of the present government who "want nothing better than to have another stick with which to beat the people ..."

The ANC's response to these critics was important. It believed that these warnings were typical of the advice it had received from successive governments for years, more of the "do nothing" syndrome. It argued that the proposed mass action might provide an excuse for government to increase its repression, but the option of inaction in the face of the fascist measures which the campaign challenged, was to allow the reactionary legislation to continue with impunity. Objectively, the liberation movement was already under incessant assault from the ruling party, and the planned mass action was the only viable defence it could offer at that time against an intransigent minority regime. The ANC's declaration (of 20 December 1951) that it would embark on a campaign of non-cooperation of certain unjust laws unless they were repealed by 29 February 1952, was a serious ultimatum to the government, but the two-month stand-off left the way open for a reassessment of the situation if the regime showed any willingness to end the impasse. If not, the organizers believed the action would mobilize resisters, educate the masses and advance the struggle against an intractable white minority regime. Moreover, the campaign would appeal to all constituencies of the country and allow the ANC to take the initiative at a time when its responses had been predominantly defensive. If the men and

women who decided upon the campaign were driven by any “powerful current” these were the factors that drove them. It was a strong argument, almost obvious.

A more recent criticism of the campaign was that it would not change the fundamental social relations in South Africa and that it hoped to persuade an ethically corrupt government to reform through “moral argument and [the] example of the ANC”. A further criticism was that the recruitment of volunteers from within the organization, effectively avoided the mass mobilization it sought.⁴³ This (*post hoc*) assessment ignored the deeply repressive context in which the campaign was devised and that the aim of the national organizations, collectively and through mass struggle, was to mobilize the masses around a coherent programme to force the regime to repeal its fascist legislation. It was not intended to challenge capitalist social relations, nor could the congresses have been said to have “recoiled” from mass mobilization, given the reach of the campaign and the support the action received. At any rate, insofar as the ANC was concerned, the National Party government had already passed the point of reform through moral persuasion.

The assertion by Selby Msimang that civil disobedience is a spiritual weapon involving a personal sacrifice, inspired by “assiduous indoctrination of the individual not the mob”,⁴⁴ has some resonance with the Gandhian understanding of *satyagraha* and passive resistance. Both forms of protest had their place in the history of the struggle, the first prior to the First World War and the second in 1946 at the conclusion of the Second World War.⁴⁵ The Defiance Campaign, which anticipated the Civil Rights Movement in the US by a decade, was different. Although it involved a non-violent confrontation with authority by an otherwise voiceless majority, it was not a spiritual action in which suffering in itself was the desired virtue. Nor was it a quest for a personal inner truth. It had no place for hatred and abhorred violence under any circumstances.⁴⁶ The act of defiance was instrumental and political, aimed at the attainment of human rights for all South Africa’s citizens. It was accompanied by hatred of an oppressive system and a belief (that would only reveal itself a decade later) that non-violence in all relations was *not* necessarily essential.

Defiance

Local leaders soon became nationally known figures as the effects of mobilization for the Defiance Campaign became apparent in one region after another and a volunteer system emerged in which the commanding profile of Nelson Mandela, the national volunteer-in-chief, slowly impressed itself upon the country. It was a non-violent struggle, but there was a limit to which the ANC could stretch the patience of its African constituency who were in a combative mood. In the interim it became more assertive and inclusive of other

groups in the country. In November 1952, concomitant with the launch of the Defiance Campaign, the unity of the ANC and the South African Indian Congress (SAIC) was supplemented by the initiation in Johannesburg and Cape Town of the small organization of democratic white South Africans – the South African Congress of Democrats. Its founding conference was in October 1953. This was preceded in September 1953 by the formation of the South African Coloured Peoples' Organization (later Coloured Peoples' Congress, which grew out of the FAC). Together with the other national organizations they made up the core of the Congress movement. A fifth component was soon added to that core with the emergence of the South African Congress of Trade Unions (SACTU), to some extent a non-racial labour federation created in 1954, as the formerly progressive Trades and Labour Council succumbed to the regime's policy of racial exclusion, and barred African trade unions from affiliation as equal partners.

The Defiance Campaign brought the different strands of the movement closer, giving rise to the concept of the Congress movement, depicted emblematically by a giant wheel supported by four spokes, one for each national group of the country's population. The concept took time, but once it took root, the idea was enduring. It was a subtle shift in thinking in which the sum of the individual congresses seemed infinitely larger than its parts. As a movement, it had its own rhythm and an overarching rationale which subsumed the broad humanitarian objectives of all the congresses, but desisted from making decisions for them. Later, it would have a Consultative Committee on which representatives of each congress would serve and its recommendations (rather than decisions) would require adoption by the respective national executive committees of the five congresses. I served as the first secretary of the National Consultative Committee between 1957 and 1960 and when I could no longer combine my formal work in the classroom with the real work for the Congress movement, Ben Turok took over from me.⁴⁷

Transition from the plans on the drawing board to action on the streets was, as always, unpredictable. The mood on both sides was combative. The state, using its legislative advantage to cripple the campaign and the ANC issuing its campaign orders with discipline and precision. In stage one, the struggle began with groups of disciplined volunteers defying the apartheid laws on set dates in the major cities of the Union. In stage two, the number of volunteers was greater and the centres of "operation" increased. In the third stage, which did not materialize, the intention was that there would be mass action in both urban and rural South Africa, the scope of which would later be made public. Volunteers who defied the unjust laws would accept jail sentences rather than pay fines and might or might not be defended in court, depending on the law they had defied.

This information was published under the name of Yusuf Dadoo in *The Guardian*. As the South African Indian Congress' representative on the Joint Planning Committee, he was becoming increasingly involved in the forward planning of the campaign.⁴⁸

The action would be limited to securing the repeal of the six unjust laws as previously identified. A more conciliatory government might have realised that these laws could conceivably have been repealed without undermining the existing racially segregated social structure. There is no evidence however, that Malan ever considered conciliation as an option. Yet, the legislation on Bantu Authorities and measures to enforce stock limitation were administrative and ideological and would not have been missed if they had been repealed. The Population Registration Act was the centrepiece of the apartheid project and had implications for the labour structure, trade union membership, sexual unions and the spatial location of the population, but it too was ideological – and previous governments had managed to retain white supremacy without it. Even the pass laws, on which the entire edifice of the migrant labour system was initially based could go (as they did in the late 1980s) without altering the social fabric. There were other mechanisms such as labour bureaux that could control the flow of labour. *The Star* in Johannesburg was conscious of this, noting that many of the repressive laws were ideological and not fundamental; that the government had

tightened the screw in such matters as railway travel and the use of the separate entrances and facilities at various public buildings. But beyond that they have done nothing tangible to show that they have the key to a solution of the problems which they propounded to be vital to the future of white civilization.⁴⁹

The miniscule presence of African and Coloured voters on the common roll was hardly likely to alter electoral outcomes seriously and the election of native representatives to parliament was unlikely to present more than a thorn in the side of government, even if they were all clones of Sam Kahn. The Suppression of Communism Act was purely an instrument of political repression, an essential accessory, in one variant or another, of every authoritarian state. Its repeal would either have reversed the trend towards fascism or slowed it down but it was not fundamental to the social system. Yet it was hopeless to expect the National Party regime to alter its course. Although still feeling its way in implementing its understanding of Verwoerd's apartheid utopia, the ruling party was on a fascist roll in which regulation and control were the commanding features of the neo-fascist state it had in its vision. It would have its Broederbond republic even if it meant living on the extreme edge of uncertainty, political repression and violence. In this context, opposing the NP behemoth was bold.

The occasion for the preliminary launching of the Defiance Campaign was a “monster rally” held on 6 April 1952, a counter-celebration of the government’s enthusiastic activities to mark the 400th centenary of Van Riebeeck’s arrival at the Cape. The launch, itself, was initially intended to commence on this day but was postponed until 26 June, while the ANC regions in Durban and parts of the Eastern Cape caught up with the rest of the country with their preparations for the launch. The slogan for the Van Riebeeck Day protest was “Save South Africa against Fascism”. A surviving leaflet, advertising the rally called upon the poor and the marginalized in the urban and rural areas, and “those suffering under the laws that were rapidly making South Africa a fascist state”, to come to the rally in their hundreds and thousands. The crowd was estimated at about 15 000 by the end of the meeting. People had been gathering since early that morning as successive groups carrying banners marched to the sides of the Fordsburg Freedom Square, singing and chanting slogans. What was common in those days was the array of inspiring speakers. This was certainly the case on 6 April, with an assembly of powerful orators, still youthful on the whole, charismatic in some cases – and most of them in their prime.

The multiple presence of the Congress movement’s leadership would soon be impossible at meetings, as one after the other they were banned from making public appearances under the Suppression of Communism Act. On this particular Van Riebeeck Day they were present en masse: Sisulu, secretary general of the ANC; Nelson Mandela, not yet admitted as an attorney by the Supreme Court of South Africa – this would occur a few weeks later; Moses Kotane, a soft-spoken orator, speaking in his capacity as a National Executive Committee (NEC) member of the ANC (the CPSA had been banned for almost two years); Dan Tloome and James Philip, two stalwart communists and trade unionists,⁵⁰ and David Bopape, also a communist, trade unionist and ANC regional secretary in the Transvaal. Moroka made the final speech, capturing the sense of enthusiasm that suffused the rally, pledging that when all of those present returned to their homes they would do so in the determination “that what happened to our forefathers will not happen to our sons and daughters”,⁵¹ Although this was only the pre-launch and not the official start of the Defiance Campaign, it augured well for the future of the action. The NECs of the SAIC and ANC met soon afterwards and formally announced the date of the commencement of the campaign. Meanwhile there was a process of preparation; a distinct quickening of activity and a combative note in the language that described the phases of action.

Instead of retreating in the face of civil disobedience, the regime extended its ideological agenda, embarked on policies of social and intellectual engineering (mass forced

removals, ethnic ghettos and Bantu Education) and pursued its repressive assault on civil rights by consistently amending the existing discriminatory laws and making them more repugnant. In response to the Congress movement's defiant challenge to the worst of this legislation, the government made liberal use of its powers under the Suppression of Communism Act, choosing the tense political moment to destabilize the national organizations, cripple the progressive trade unions and prevent the dissemination of information on the Defiance Campaign to the movement's supporters. Strategically, it banned the prominent regional and national leaders, Kotane, Dadoo, Bopape (by now a popular ANC secretary in the Transvaal) and Ngwevela, also a communist and celebrated ANC provincial president in the Western Cape. They were all ordered to resign from their national organizations, refrain from attending any gatherings and to confine themselves to their provinces. This had clear implications for the potential defiance of these leaders.

With the exception of a handful of MPs who were clearly uncomfortable with the polarising impact government policies were having on all sections of the black population, few inside parliament had any real idea of the tensions in the country. Among the black population at large, the mood was quite different. There was a backlash to the banning of the movement's leaders, the expulsions of Kahn and Carneson and the minister's decision to close *The Guardian*. The paper's editor, Brian Bunting responded defiantly, stating that he as editor, did "not accept [Swart's] decision to ban the paper as either just or lawful" and that he intended "to carry on".⁵² He delivered on his promise a week later, introducing to a bewildered establishment, *The Clarion*, the first of the banned paper's intrepid successors. It was a new tabloid weekly newspaper but in essence a resurrection of *The Guardian* that would lack nothing of that paper's rigorous reporting and vanguard tradition.

In its second week, the paper carried Sam Kahn's final address to parliament, not so much a valedictory speech as a lashing of the National Party government. It was an address that should have served to haunt his political opponents for the rest of their political lives. Kahn did not live to witness the achievement of the principles for which he was so summarily thrown out of the House of Assembly, but his spirit will always be an encouragement to the post-Mandela generation. His words would be a prophecy for all those in the struggle who were victims of their political beliefs:

Today it is the members of this Assembly who stand in judgment upon us, but it is tomorrow that history will sit in judgment upon those who condemn us ... What we have here is a mockery. I have had sentence before verdict; I have had verdict before trial and I have had trial without evidence ... I am a victim of my political beliefs, and what has brought me into conflict with the government has not been my belief in Socialism or my belief in a Republic, but it has been my advocacy of complete equal rights for black and white in this country.⁵³

A week later, on 5 June 1952, a picture appeared in *The Clarion* of a defiant Sam Kahn outside the House of Assembly, selling a copy of the paper to the Minister of Justice, C.R. Swart: both of them smiling through their teeth.

Weeks before the official commencement of the campaign, a number of national and provincial leaders personally defied the restrictions that had been placed on them. Possibly the crude attempt by government to silence them triggered their decision to be the first to ignore the restrictions imposed on them and in accordance with popular parlance, “to defy”. According to Ahmed Kathrada, the most prominent of the national and provincial leaders were requested to set an example.⁵⁴ Kotane was arrested for addressing a meeting (in defiance of his banning) in Alexandra township. Others decided to join in a meeting at the Johannesburg City Hall steps with Solly Sachs, the outstanding veteran trade unionist who had been ordered, together with a number of others in the trade union movement, to resign from their unions, refrain from addressing meetings and confine themselves to their respective provinces.⁵⁵

In using its powers under the Suppression of Communism Act so extensively one month before the formal commencement of the Defiance Campaign, the regime clearly hoped to put a brake on the national momentum the campaign had developed. The banned members responded militantly by expressions of individual outrage at their being demonised as “named communists” and their loss of political rights. A few days before his arrest, in June 1952, Moses Kotane wrote about the pattern of events of the previous few months and the parlous state of the rule of law. “The Nationalist Party has dropped the mask ... of respect for law and order and democratic institutions”, he wrote. It is “obsessed with the desire to retain state power at all costs ... [and] will smash down any and every obstacle in [its] path to dictatorship”.⁵⁶ There was anger and more emotion than one would have expected from Kotane, but the article was nonetheless a trenchant description of the direction the regime was taking, and a sign of the defiant mood that was emerging.

Similarly Yusuf Dadoo, in breach of his banning order, told a crowd of supporters: “We can never give in to Fascism and we shall never give up the struggle for freedom”. On the platform next to him were David Bopape (still secretary of the ANC region in the Transvaal) and D.N. Pritt, a veteran British communist and barrister, who witnessed Dadoo and Bopape descend the platform and walk towards the detectives who stood waiting for them. The detectives “received” the two men gingerly and arrested them as the audience sang *Csikalele Izwela* – “We are crying for our country which was taken away by foreigners”.⁵⁷ J.B. Marks was similarly arrested in Orlando after telling a singing crowd of supporters: “The government is out to make our future destiny as dark as possible and we are bitter.” Verbalising what he saw as a changed situation, he confided: “A new Congress has arisen under new conditions and under a new leadership, this

leadership being the African people.”⁵⁸ Possibly he was referring to the increasing stature of the Congress movement and the evident support for the current campaign. At about the same time as he was being arrested for defying his banning order, Michael Harmel was similarly detained for speaking at a separate gathering on behalf of the Transvaal Peace Council. The principal speaker at that meeting was again D.N. Pritt, who looked on in dismay as another activist, Harmel, was taken into custody. (Shortly before this he had witnessed Kotane’s arrest).

The leaders’ defiance of their restrictions on association and speech was the prologue to the planned campaign against unjust laws. Their defiance was not initially intended as a phase of the overall action but fitted into the plan and gave it impetus. The emphasis was to be on mass struggle, beginning with the defiance of groups of disciplined volunteers in the major centres, gradually increasing in number and areas of “operation” as the action extended into the second phase (of widening) the campaign. The third phase (which was never reached) was industrial action. At any rate, the action of the leadership in going to gaol served as a curtain raiser to the formal launch of the campaign. The court hearings of these leaders, which preceded the main batches of volunteers going into action, were indicative of the pattern to emerge during the course of the planned phases of the campaign.

The campaign immediately spread from Johannesburg to the major cities of Port Elizabeth, East London and to the townships in Johannesburg; a few districts in the Eastern and Western Cape and then to Durban. Although the triumphal court appearances and caustic comments from the bench were predictable, the circumstances of the arrest of each batch of volunteers were different. In all cases the leaders unflinchingly made original statements from the dock, explaining the reasons for their action.⁵⁹ A surprising outcome of the campaign was the discovery of the tenuous legality of the petty apartheid regulations. This became apparent when nineteen “defiers” in the Port Elizabeth area were arrested and subsequently acquitted after asking to be served at a “whites only” post office counter. They were released because there was nothing in the postal regulations enforcing apartheid and no offence had been committed! Interestingly, the absence of precise regulations on the segregation of post offices had not previously prevented the state from erecting partitions and setting aside separate telephone booths for “Europeans” and “non-Europeans”.⁶⁰

The mass action snowballed. By the end of July 1952, barely five weeks after the start of the campaign, 1 200 activists had volunteered.⁶¹ The state prepared for a case of grand conspiracy to inhibit any further success and in August 1952 ordered squads of detectives to swoop on the offices and homes of communists and other activists. My flat

in Yeoville was one of the many raided in what was the beginning of a series of police raids carried out on a massive scale with increasing frequency. They were fishing expeditions, invariably intimidating because of the caginess of the special branch on the items they were looking for, and always ending with the confiscation of yet more of my library of Marxist literature. The raids on this occasion were not just fishing expeditions but followed by arrests two weeks later in mid-August 1952.

In these raids, 20 leaders of the campaign were detained, including Sisulu, Marks, Mandela, Kotane, Bopape, Tloome, the two Cachalia brothers and 23 year-old Ahmed Kathrada. They were charged under the Suppression of Communism Act for “encouraging the achievement of the objects of communism”. The formulation of this charge, in time, became so standard that we could almost compose it ourselves. I think the ruling party actually believed its rhetoric (restated in the charge sheet) that “industrial, social and economic chaos would result from alterations in the laws differentiating Europeans from non-Europeans, especially the extension of the vote to Africans”. The danger of this was that any peaceful protest against repressive legislation could be construed as a threat to economic stability and if not treasonable, a contravention of the Suppression of Communism Act.

The charges against “the twenty” were intended to disrupt the campaign and intimidate Congress and its followers, but in the end turned out to be a damp squib for the prosecution. Accused of attempting to bring about social chaos by demanding the vote and an end to segregation, the accused stood trial from August until December 1952 (with many adjournments). Eventually, Justice Rumpff (who ten years later sent Sisulu, Mandela and Kathrada to jail for their “natural lives”), rather impatiently on this occasion, sentenced all twenty of the accused to nine months’ imprisonment with compulsory labour, suspended for two years on condition they were not convicted under the same act in that period. In the event, the volunteers successfully appealed against the judgment and the state’s case came to nothing.

In the Eastern Cape a similar trial took place of 15 local activists, many of whose names would soon be known nationally. Among them were Dr J.Z.L. Njongwe, older than the other accused; a youthful Joe Matthews, son of Professor Z.K. Matthews; and 13 young activists (described in a manifesto they had written as militants in the ANC Youth League). In substance the charge against them (under the Suppression of Communism Act) was similar to that of the “twenty” in Johannesburg, in which the aims of the Defiance Campaign were linked with their activities in the districts of Port Elizabeth, East London and Queenstown. Their trial commenced in October 1952 and dragged on until April 1953, when sentence was handed down. In his statement, Njongwe summed up the anger of the youth, expressing their frustration at the government’s intransigence:

We feel it right to say [that the acts against which we have protested] were symbolic of all that is reactionary and uncivilized in our country ... While we did not consider that the repeal of these Acts would in any way amount to an overthrow of the fundamental structure in South Africa, we knew it would provide relief to a suffering people.⁶²

All of them were sentenced to nine months imprisonment, suspended for three years, in line with the sentences of their counterparts in the trial of the “twenty” in Johannesburg.

By October 1952, four months after the campaign began, the number of volunteers approached the 7 000 mark, causing the regime to act in contradictory ways. On the one hand there were rumours that the law-writers were busy preparing harsher legislation to suppress political opposition, and on the other there was talk of feelers being extended to a number of African leaders in different centres to suspend the campaign. The informal negotiations, according to the media, were “in order to create the best possible atmosphere for talks with the government”.⁶³ However, there was certainly no unanimity on the question of negotiations within the ruling party. *Die Burger*, organ of the National Party in the Western Cape saw in this as “the writing on the wall”, labelling negotiations with non-European leaders as “dangerous stupidity”.⁶⁴ Malan, who was more than likely at odds with his cabinet colleagues on negotiating with the ANC, opted for harsher measures to crush the campaign. Accordingly, C.R. Swart, announced that he would be seeking legislation to stop the “agitation” promoting the Defiance Campaign and issued proclamations under existing legislation, banning meetings of Africans in urban and rural areas throughout the Union.⁶⁵ This made the outlook for the future of the campaign seem bleak, but between the introduction of fresh legislation and the ending of “civil disobedience”, a new factor emerged that increased international interest in the growth of opposition to the regime. This was the surprise emergence of volunteers from the “white” section of the population and an eminent group of volunteers led by Patrick Duncan, son of a former governor of the country.

The entry of whites into the Defiance Campaign ostensibly occurred after a strategic decision of the National Action Council to broaden the campaign. Oliver Tambo led this initiative, informing the media in November 1952 that the participation of whites was to show that defiance was not directed at any racial group but to “achieve the recognition of non-Europeans as human beings”.⁶⁶

It had been an eventful nine months of active resistance from June 1952 to March 1953, in which the Defiance Campaign had been the main preoccupation of the Congresses. After March there were only a few minor incidents, the campaign effectively ending a year after it had started. About 8 000 activists had been arrested, some of them more than once. The continuous “agitation”, as the ruling party described the many acts of civil disobedience, did not inhibit the regime from reacting with overwhelming legislative

force to crush the campaign and silence its critics. The ANC, for its part, hardened by the experience of the last nine months, responded with sharp changes in its leadership, its organization and a new turn in strategy.

The first change (that had been brewing for some time) was to replace Moroka with Chief Albert Luthuli, who was elected president of the organization at the ANC's annual conference in December 1952. He was elected by a large majority and took office, rather poignantly in the circumstances, with a salutation from the outgoing president, James Moroka, who had lost favour with the youth and his peers in the leadership.⁶⁷ Where Moroka was conservative and uncomfortable in confronting state power, Luthuli although not a radical, was equal to the challenge of the most commanding of authorities, especially when he felt that the burden of oppression was no longer tolerable or the condescension of government ministers so dismissive of African pride as to be unacceptable to his sense of human dignity.

Unlike his predecessor, Luthuli was conscious of status not for himself, but for his people. In 1962 he wrote: "I regard my life as one among many, and my role in the resistance as one among many."⁶⁸ Although ambivalent about a violent struggle, according to Mandela he was not a pacifist. He remembered Luthuli saying at Stanger, where armed struggle was under discussion: "If anybody thinks I am a pacifist, let him go and take my chickens."⁶⁹ He reluctantly accepted the recourse to arms, neither endorsing the decision nor attacking it "but never forbidding the new path, blaming it on the regime's intransigence".⁷⁰ He both listened to and heard the counsel of Kotane, Sisulu, Matthews, Mandela and Tambo, icons of the century who were all on the national executive of the ANC, which Luthuli now headed. A visionary in his zeal for the democratic ideal and in his enduring faith in the attainment of human dignity for all those he served, he was deservedly followed and regarded as a charismatic leader in what was to be the most traumatic decade thus far in the country's troubled history.

The election of a new president was not the least of the important decisions made at the ANC annual conference in December 1952. It also adopted an emergency resolution, which gave the NEC of the ANC extraordinary powers "to carry out any decision it might consider expedient to assure the continuance of the struggle in any shape or form".⁷¹ Swart was preparing legislation to rush through parliament to end the campaign of civil disobedience, so the resolution was designed to enable the organization to make plans in the event of further restrictions on the conditions under which it might work, and to forestall the debilitating effects of a possible order banning the ANC.

The first of Swart's measures was the Public Safety Bill. Accurately describing it as "a complete blueprint for Fascism", Moses Kotane called it a prelude to a putsch.⁷² He was right. Power was passing from parliament to the ruling party. The governor general (in effect, the leader of the National Party, acting through the Minister of Justice) was

endowed with the most astonishing powers to suspend any act of parliament “or any other law”, except the Defence Act or legislation regulating the labour system. It was obvious why the army and the labour system were exempted from the Bill’s provisions. The suspension of the latter would probably do more to unravel the fundamental structures of the economy than anything the Defiance Campaign ever contemplated, while the army would be used to replace civilian government if necessary. As if these powers were insufficient to suspend the rule of law, the Bill also enabled the National Party government to proclaim a state of emergency if this became expedient. It was an Orwellian piece of legislation, purporting in its title to protect law and order but in reality putting public safety at risk by virtue of its provocative nature. The ANC condemned the Bill for what it was worth; it was yet another decree by a fascist regime “to impose a Broederbond dictatorship on the country ... It would not only be used to destroy the congresses but all the anti-nationalist bodies, and enable the government to round up the leadership and crush ... civil liberties”.⁷³

In fact, two overtly violent bills invoking corporal punishment were introduced into parliament at this time. One was dubbed the “Whipping Bill” (an amendment to the Native Sentences Act) and dealt with criminal cases, providing for compulsory lashes for persons convicted of rape, grievous assault and other serious criminal acts. The other (the Criminal Laws Amendment Act) passed into law in February 1953 was to provide corporal punishment for civil disobedience. We viewed the first of these bills with great apprehension at the time, although there was no suggestion that the amendment to the Native Sentences Act would be extended to “crimes” of civil disobedience. But from the tone of the debate in the House of Assembly, and the nature of a pending bill to punish resisters in the Defiance Campaign (the latter was soon introduced) it was not difficult to imagine that corporal punishment would be applied to these volunteers who defied the law. The record of the debates on both bills in the House of Assembly read like eulogies on the virtues of corporal punishment. In response to the debate on the “Whipping Bill” Alex Hepple, the Labour Party leader, exclaimed: “I listened again to the honourable member (for Krugersdorp) and I think his speeches in this House would qualify him to be a leading philosopher of the Stone Age.”⁷⁴ The offending MP had defended the whipping of African offenders by citing Solomon Ch 26. 3. “A whip for the horse, a bridle for the ass and a rod for the fool’s back”, he declared with great approval from the other National Party MPs in the House.

But it was not only the National Party member for Krugersdorp and his inappropriate reference to the verses of Solomon that relished corporal punishment as a deterrent to criminal and political offences. It was a punishment that had long been meted out (illegally) on farm workers. Magistrates legally used it against offenders under the common law. Brian Bunting, who had been elected as the native representative for the

Western Cape in November 1952 after Kahn's expulsion, was the last to speak in parliament on the latter bill.⁷⁵ "This sort of legislation and the whole succession of Bills," he said, "is the guarantee of a violent future."⁷⁶ Earlier, in a memorable maiden speech, he warned the members of the House:

Social change is going to take place in South Africa ... either peacefully without violence and without bloodshed and without friction against the races. But it is my charge ... that the policy that is being pursued by the present government is making that desire impossible.⁷⁷

His message could hardly have been more accurate. Unfortunately, he could say this under the privilege of parliament but could not repeat it to the public outside, as he was banned under the Suppression of Communism Act soon after his election. The mentality of the government was to crack the whip harder while the National Party press was screaming for legislation to legalize floggings to counter political action. The government eventually obliged with the Criminal Law Amendment Bill (February 1953).⁷⁸ Previously, the absence of such legislation had not stopped a magistrate in the Port Elizabeth area from anticipating the Bill, and sentencing young resisters under the age of 21 years to canings.⁷⁹ Corporal punishment was frequently used well before the introduction of the new legislation, despite opposition from liberal-minded reformists. One of them (A.W. Hoernle) told the government during a commission on penal reform: "the use of the cat is barbaric ... While the world condemns corporal punishment, South Africa is making it compulsory".

The new bill was described by the media "as a descent towards barbarism" – as if we were not already in a state of nature. The new measure brought stiff changes to the criminal justice system, including the introduction of floggings for civil disobedience. It literally criminalized black political opposition, and left Congress volunteers who protested against the country's legislation vulnerable to harsh sentences of up to a maximum of three years in jail or a combination of ten strokes and a term of imprisonment. There was provision for yet stiffer sentences for civil disobedience – a fine of £500 or five years in jail and fifteen strokes – or a combination of punishments. As it was usual for volunteers to defy more than once, the new measure provided that in the case of second offenders, "the courts would not be competent to impose a fine only". A whipping and a fine were thought to be more appropriate.⁸⁰ Supporters of the Congress movement who assisted others to protest against a law were also liable to a combination of the same harsh sentences. It was unclear who would fall under this category besides the "defiers" themselves. Was it the supportive crowds who gathered on the streets to cheer the resisters or the voluble spectators in a courtroom? Even the volunteers who ferried the

“defiers” to their sites of operation and brought the resisters food while they waited to be arrested were vulnerable.

Assessing the Campaign

Ironically, the momentum of the campaign had tapered off somewhat by March 1953 when these bills were introduced into parliament and the continuance of the campaign was debatable. In reviewing the Defiance Campaign in December 1953, Chief Luthuli’s tolerance had been stretched to the limit. So much had happened in the year since he had been elected ANC president, not least his summary deposition as chief of the Umvoti Mission Reserve, a position he had held since 1936. He could no longer refrain from passing moral judgment on those who stood by – either in denial of the relentless oppression of blacks by the regime – or on those who were aware of the brutality of the successive acts of government and by their silence condoned it. One had to work openly for freedom, he believed, “or be guilty of directly or indirectly assisting the National Party in its ... unmitigated suppression of the non-white peoples”.⁸¹ The campaign had not succeeded in forcing the government to repeal the six symbolic acts against which it had been fought, but he felt it had to be assessed in wider terms that reflected its impact on the people, their willingness to accept the leadership of the ANC and the added capacity it gave them to renew the struggle. He was quick to note that the Defiance Campaign showed “that there were weak links in our chain”, but he preferred not to list them, and dwelt instead on the strengths it revealed. In his view, these would ultimately prove to be more important. They included the support the campaign had rallied; its large appeal and its positive effect on the political consciousness of the people. “The Campaign itself came to an untimely end”, he wrote, “but it left a new climate and it embraced people far beyond our range of vision”.⁸²

This was true. The Defiance Campaign had not been “historic” in the anticipated triumph of the repeal of racist laws, but it had helped to create a new mood, a new scenario for multi-racial opposition to the regime and above all, had changed the perception of the ANC among the African masses. The campaign, Luthuli wrote, “had succeeded in creating among a very large number of Africans the spirit of militant defiance”. This also was the movement’s official response.⁸³

Walter Sisulu argued differently and his points were persuasive. He believed that the campaign had lifted the freedom struggle to a new level of intensity, “higher than any previous struggle”, but he thought it was historic for this and other more tangible reasons. “No matter what anyone feels or thinks about the Defiance Campaign”, he said towards the end of the action, “the fact is that it changed the political life in South Africa”.⁸⁴ In his view, the campaign had had an impact on the organizational development of the ANC and fostered a new level of interracial unity, polarizing the struggle between those who

supported human rights and those who wished to retain the status quo. It had created strong and reliable voluntary workers and in “1952 the Congress membership shot up to more than 100 000 – an increase of more than 75% over the previous year ... strengthening our ties, as the major group in the country, with the other national groups”. Sisulu was particularly encouraged by the addition of the Congress of Democrats to the Congress movement. He told the ANC in April 1953:

I particularly welcome the COD in the democratic camp because their presence challenges directly the contention of the racists from the “Nats” to the Liberals that the liberation of the African is an express or implied threat to the Europeans of the country. There is now a clear [direction] in the country which admits of no middle groups and fence sitters.⁸⁵

What Luthuli, Sisulu and others had captured (and this was notable from the statements of volunteers to the court during their trials) was what Michael Dingake, a new recruit to the ANC caught in his lively autobiography, *My Fight against Apartheid* (1987): “Something needed to be done!”, he wrote. “The Defiance Campaign was the right action. Arrest us! Kill us! Eat us if you will! The way you destroy human lives you must be cannibals ... It was my mood. Frustrated, angry and reckless.”⁸⁶ I knew Dingake from a fateful meeting before my arrest in 1964 and subsequent sentence in the Fischer Trial. If he had not had his wits about him and gone into hiding at the time of our arrests we would have been on trial together. Later, when I was already serving my sentence, he was detained in solitary confinement in the African section at the Pretoria Local Prison – I did not know it then, but we were neighbours!

Looking back, I wonder whether Sisulu’s assessment was too uncritical to be credible, and whether the effectiveness of the campaign had been overstressed. It was not immediately clear that the impact on the people had been as widespread or deep as the leadership suggested. I think it was true that the dedication and discipline of the ANC membership had been proven “top down and bottom up”. But that on its own was not sufficient to make the occasion “historic”. How far had the campaign been a mass struggle, involving South Africa’s millions as opposed to the core of its membership and committed leaders? The court scenes and public support of Africans in particular was evident but what impact had it had on Africans as a whole and on the “white consensus?” Either the whites were so complaisant as to treat a campaign as important as civil disobedience as of little consequence to their continued security – or they were in denial of the turbulence in the country – and just ignored the regular reports of the Defiance Campaign in the media. The white establishment seemed as intact as ever – monolithic.

An Afterword on the Volunteers

At least a monograph is needed to convey the excitement and the expectations of the Defiance Campaign and the collective acts of courage of the volunteers in the campaign . Few of the biographical accounts of the time have done sufficient justice to their sacrifice and commitment, which was at its height in March 1953 when it tapered off with the introduction of harsher legislation and successive acts of serial banning of the Congress leadership. Only the perspective of the Congress organizations and a few of the actions of the volunteers are noted here, but the history of this less celebrated aspect of civil disobedience by the volunteers deserves more attention.⁸⁷

The instructions of the National Action Council were quite explicit:

In all the main centres in the Union, organized groups of Indian, African and Coloured people will go into action on 26 June and will deliberately break discriminatory laws such as apartheid in trains, buses and at post offices; the pass laws; curfew regulations; cattle culling; and regulations preventing Indians from crossing from one province to another.⁸⁸

Moroka, still the president of the ANC (soon to be superseded by Chief Luthuli) passionately defended the action. With an impatience that reflected his own frustration and the exasperation he sensed among his peers within the leadership, he told a mass meeting of 10 000 people immediately after the NEC's had held a joint meeting:

Both the National Party and United Party regard us as their perpetual inferiors. All of them have steadfastly upheld a policy of discrimination against the Africans and have never differed in their policy of discrimination ... There is no alternative [to the launching of the Defiance Campaign] because we are disarmed and unrepresented. Our national leaders are ignored and their warnings are not heeded.⁸⁹

There was, I believe, a new mood of militancy in the air that tested the tenets of white privilege and engendered feelings of defiance against authority. This was apparent from the preparatory stages of the campaign. Kotane, Marks, Bopape, Dadoo and Bhoola, the latter a spirited resister of twenty-two who was arrested with them, were tried in close succession. All except Yusuf Dadoo were sentenced to four months imprisonment. As Yusuf was described (by the prosecution) as "a sixth time previous offender", he was given an extra six months sentence for contravening the Suppression of Communism Act under which he was banned from attending and speaking at gatherings. Each of the accused made statements from the dock: Kotane acquitted himself well with an eloquent defence of his action, while J.B. Marks summed up the general feeling of the accused by

bluntly telling the court: “As this order condemned me without trial, I had no alternative but to demonstrate my fundamental indignation against the intolerable conditions placed upon me and thereby raise the cry of justice.” In his statement, Bhoola, who was arrested with Dadoo, invited the magistrate “to take a trip to the township and walk through the segregated streets and bazaars and see how our young people live”.⁹⁰ Dadoo, more didactic on this occasion than the others, told the magistrate: “Laws in the making [over] which we have no say and which are bad and unjust, cannot be tacitly approved [and] must be fought by every legitimate means.”⁹¹ Fortunately, none of them served their sentences as they successfully appealed against the judgments and were acquitted on technical grounds. Their trials, as well as the subsequent trial of Harmel, coincided with those of the batches of volunteers amid the same “unprecedented” scenes inside and outside the court.

With the formal start of the campaign, Sisulu and Nana Sita, president of the Transvaal Indian Congress, led the first contingent of 50 volunteers to jail on 26 June 1952. A veteran of the 1946 passive resistance campaign, Sita was the official leader of the batch, though Sisulu (drawn into this particular operation at the last moment) played a prominent part in the proceedings. The court scenes during this case and the others that followed seemed theatrical while the sentences were nominal and the magistrates reluctant to convict the volunteers. The trial of Sisulu’s batch followed a month after the action, which took place with a little drama and some farce, as the police hesitated to arrest the volunteers in the small reef town of Boksburg. Sisulu and 38 fellow African activists were charged with failing to produce a pass – to which they pleaded guilty. Sita’s volunteers (all of them Indian) were charged with illegally entering the African section of the location without a permit – and similarly pleaded guilty. Each was sentenced to seven days imprisonment or a fine of £1 but (with a single exception) they all declined to pay the fine, opting to serve the week’s sentence. Straining to be heard above the applause, Sisulu told the court: “My duty is clear – it is to take the lead and to share with the humblest of my countrymen, the crushing burden imposed on us because of the colour of our skins.”⁹²

In contrast, the dignified atmosphere during this trial was followed about a week later, by the trial of Flag Boshielo and his volunteers, in what seemed like scenes from a lively political rally. The corridors of the court were crowded with ANC supporters who noisily clamoured to be admitted to the gallery where a large number of very vocal followers were already seated. The magistrate dismissed the request for additional seating for the spectators and derisively reminded the accused that they were in a courtroom and “not a bioscope!” Boshielo and his 52 co-volunteers, were charged with contravening the curfew regulations in Johannesburg but the magistrate, clearly reluctant to give any impetus to the campaign by obliging the volunteers with the prison term they expected,

ruled that since the accused had not been asked to show their passes, there had been no breach of the law! Following this, in what seemed to be a mixture of confusion and elation, the accused and the spectators filed out of the courtroom, the men throwing their hats in the air, the women ululating and all of them giving the Afrika Salute.⁹³ (In a twist to this story, Nelson Mandela was inadvertently arrested after he and Cachalia left a meeting in the vicinity of Boshielo's batch that night and were taken by the police to be part of that action. The police were uninterested in their explanations for being on the scene and as any disclaimers of his connection with the campaign would have been invidious, Mandela joined Flag and ended an eventful day in a prison truck, singing the national anthem all the way to the Marshall Square prison!⁹⁴ Cachalia followed, separately).

Whites Support the Campaign

A meeting called to solicit the support of whites (from which the Congress of Democrats was subsequently to emerge) was held towards the end of November 1952 at the Darragh Hall, Johannesburg. A similar meeting was held in Cape Town at more or less at the same time, after which a number of white supporters went into action in both cities. Patrick Duncan, a liberal-minded white democrat, led a batch of some 38 white, Indian and African volunteers in the Germiston area, about 15 miles outside Johannesburg. What distinguished his group of resisters from some of the others was its high profile participation and the international interest it created. Patrick Duncan, the son of a former governor general in South Africa, attracted considerable media attention. A Liberal, with strong views against racial bigotry, he did not mince his words when it came to condemning apartheid. "White supremacy ... may go quietly or it may be drenched in violence", he told the media at a briefing before his arrest, predicting the ruling party's early demise from power. He was also a stubborn fighter and an optimist: "We do not know the future in detail", he told them, "but we know that white supremacy is on the way out".⁹⁵ He was correct about the future but wrong in his optimistic assessment of an early change of government. The change occurred almost 40 years after he made that statement.

Duncan's identification with the Defiance Campaign elicited international support of the highest calibre – dignitaries from the House of Lords, the Anglican Church, the media and the British cabinet. These included Canon John Collins (dean of St Paul's) Lord Stansgate; Fenner Brockway (later elevated to the House of Lord's but familiarly referred to as Fenner); Lady Pakenham; Kingsley Martin and James Griffith (at the time Secretary of State for the Colonies). Almost all of them retained a lasting connection with the liberation movement. The volunteers themselves were also burgeoning personalities. Among the Africans were Alfred Hutchinson, a talented writer and Henry Makghoti,

teacher and respected member of the African Youth League, soon to become prominent in the ANC. Regina Twala was a social worker at the University of the Witwatersrand and Lindiwe Ngakane was the sister of Lionel Ngakane, the star of the film “Cry the Beloved Country”. Manilal Gandhi, son of the Mahatma and about a dozen others made up the component of Indian volunteers. The white volunteers came from a variety of backgrounds: Betty du Toit, the trade unionist and communist militant; Freda Troupe, author of a biography on the missionary activist Reverend Michael Scott; Selma Stamelman an anthropologist; and two Wits University students, Sydney Shall and Margaret Holt. Duncan, hobbling on crutches as a result of a recent motor accident, led the resisters.

They entered the Germiston African township (much as Walter Sisulu and Nana Sita had done a few months’ before them in Boksburg), amid cheers and great excitement among the African onlookers. First they marched through the Asiatic bazaar and then along the main road of the township with the flying squad cars and troops of newspaper and cameramen bringing up the procession of spectators in the rear. For a moment it seemed that the police were not going to arrest them and they retraced their steps, walking in a circle of several blocks, back to the main road. Eventually the police swooped. Duncan was the first to be arrested and the others were taken into custody separately. They spent two nights in the dingy Germiston prison cells before they were brought to court. The whites and Indians were charged with entering the township without permission and the African volunteers with not being in possession of their passes. Until a fortnight previously, this offence would have merited a fine of £2 or fourteen days in jail, but under the new regulations promulgated recently by Swart under the Natives Administration Act, the stakes of opposition to the regime had drastically risen.⁹⁶

At the trial, the magistrate quite unashamedly explained that the Africans among the accused were no ordinary offenders: “We are dealing with a race that is primitive [and] easily led ... who will under emotion act as they would otherwise not do under calmer reflection.”⁹⁷ He fixed bail at £20 for the black accused and £50 for the whites. Duncan as the leader was sentenced to 100 days imprisonment and the others to 25 days each. The discriminatory treatment did not go unmarked and all served their sentences.

In Cape Town, four whites, among them a youthful Albie Sachs, subsequently a judge in the Constitutional Court sat (together with the Africans in their batch) on benches marked “for Europeans only” in Cape Town’s Central Post Office. With him was Mary Butcher (later Turok), Hyman Rachman and a volunteer named Harrison, whom I do not remember very well, all of them graduates of the University of Cape Town. The post office staff tried to whisk them away but they would not budge. According to the media, they sat for an hour writing telegrams of protest to Malan before a police captain and a sergeant drove them away to a police station – in a sedan car.⁹⁸

They were charged with “obstruction” because there were no regulations that gave any validity to post office apartheid and they were not breaking any law when they sat next to their African comrades on the seats reserved for “Europeans Only”. Sam Kahn defended them with his usual good humour and razor-edge logic, arguing that his clients could not have obstructed anyone, because they were sitting peacefully on the post office benches, waiting to be arrested. It was not of their making that a large crowd had in the meantime gathered around them, shouting and raising their fists in the Afrika salute. The police, he added for good measure, had not arrested any of the onlookers who were physically obstructing the site. “Nor did the Captain arrest himself for causing the crowd to collect, although his arrival made many more people gather.” The accused were all ultimately acquitted. At a reception to celebrate their release, a crowd of about 500 assembled at the Drill Hall in Cape Town. One of the speakers was Albie Sachs, aged about 17 years, who was reported in *Advance* of 11 December 1952 to have told the audience: “In South Africa, economic and social progress is being hampered by a gang of Nazi tyrants, representing one tenth of the population. There is no future for youth in a fascist country.”

In a conversation with Albie during the course of writing this memoir, I reminded him of the speech and the court case, which he obviously remembered very well, adding that at the end of the trial the magistrate, clearly intrigued at the extreme youth of all the accused, asked if anyone’s mother was present in the courtroom? Ray Edwards (Albie’s mother) raised her hand. The magistrate looked at her and at her son, paused for a moment, and then without further ado said sternly: “Please take him home!”⁹⁹

Chapter 8

- 1 *The Guardian*, 28.09.50.
- 2 See Ellen Schrecker, *Many are the Crimes: McCarthyism in America* (Little Brown, Boston, 1998).
- 3 The citation is from *The Guardian*, 11.01.1951 and the reference to the influence of the Party follows a conversation between the author and Brian Bunting on 23 January 2004.
- 4 *The Guardian*, 11.01.1951.
- 5 Dadoo, citing a set of priorities for 1951 in a statement to *The Guardian*, 11.01.51.
- 6 *The Guardian*, 29.03.1951.
- 7 *Freedom*, 2, 7 (1 April 1950).
- 8 *The Guardian*, 17.04.1952.
- 9 Dadoo, cited in *Advance*, 29.04.1954.
- 10 Sampie Terblanche, *A History of Inequality in South Africa* (University of Natal Press, Pietermaritzburg, 2002), pp. 38, 299 and 400, notes how deeply poverty was entrenched under apartheid, with consequences for the transition.

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- 11 *The Guardian*, 18.01.1951.
 - 12 *The Guardian*, 6.09.1951.
 - 13 *The Guardian*, 25.01.1951.
 - 14 The failure of the TLC to take a stand against the government had a major impact on the development of black trade union unity and profoundly influenced the future of trade unionism in the country. The establishment in 1954 of the South African Congress of Trade Unions (SACTU), forerunner of COSATU, was prompted by the Unity Committee's disappointing capitulation to the government.
 - 15 *The Guardian*, 03.05.1951.
 - 16 These included the Peninsula, Worcester, Paarl, Port Elizabeth, Somerset West and Strand.
 - 17 *The Guardian*, 10.05.51. The strike took place on Monday 7 May 1951.
 - 18 The implications of Clause 27 of the Natives Laws Amendment Act, cited in *The Guardian*, 24.05.51.
 - 19 Clause 20 of the Natives Laws Amendment Act.
 - 20 *The Guardian*, 15.02.1951.
 - 21 *The Guardian*, 15.02.1951.
 - 22 *The Guardian*, 15.02.1951.
 - 23 Cited in *The Guardian*, 6.03.1952.
 - 24 M.B. Yengwa, secretary of the SANC Youth League noted with some sarcasm that "The Nationalists found even this form of democracy too troublesome", *The Guardian*, 07.06.1951.
 - 25 *The Guardian*, 27.12.1951.
 - 26 *The Guardian*, 21.06.1951.
 - 27 *The Guardian*, 25.10.1951.
 - 28 Cited by *The Guardian*, 10.05.1951.
 - 29 An extract of an article in the *The Guardian*, 2.07.1949, possibly one of many filed by Ruth First, must surely have its place in history, along with similar descriptions by Michael Scott and the writers on the Drum magazine: "Africans are sold to farmers at the native Commissioners Court in Fordsburg, where hundreds of men are charged each day with pass offences. Cars, lorries and vans from the Platteland line the streets outside the court ... waiting to collect farm labourers from the men brought in by the police pick-up vans in the raids of the previous night ..."
 - 30 *The Guardian*, 09.08.1951.
 - 31 ANC Declaration to launch the Defiance Campaign made at its 39th Annual Conference, December 1951, cited in *The Guardian*, 20.12.1951.
 - 32 *The Guardian*, 20.12.1951.
 - 33 My emphasis.
 - 34 *The Guardian*, 20.12.1951.
 - 35 See Bunting, *Moses Kotane*, p. 183.
 - 36 Cited in *The Guardian*, 7.02.1952.
 - 37 *The Guardian*, 7.02.1952.

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- 38 ANC statement signed by Walter Sisulu (secretary general) and Dr J.S. Moroka (president general), published in *The Guardian*, 21.02.1952.
- 39 *The Guardian*, 28.02.1952.
- 40 *The Guardian*, 31.02.1952.
- 41 Cited in *The Guardian*, 17.01.1952. Thomas Ngwenya (executive member of the Cape Western Regional Committee of the ANC) told *The Guardian*, who carried this item, that Msimang had been present when the decision was made, but raised no objections at the conference itself.
- 42 *The Star*, Johannesburg, 08.07.1952.
- 43 Dale T. McKinley, *The ANC and the Liberation Struggle: A Critical Political Biography* (Pluto Press, London, 1997), pp. 18, 19.
- 44 Cited in *The Guardian*, 17.01.1952.
- 45 The first against Smuts' Indian immigration and residential qualifications before the First World War, and the second in 1946, against further discriminatory Indian legislation.
- 46 The philosophy of *satyagraha*, as well as its application to South Africa is well developed in Judith M. Brown, *Modern India: The Origins of an Asian Democracy* (Oxford University Press, Oxford, 1985), p. 205ff; and by Mohandas K.G. Gandhi, *Autobiography: The Story of My Experiments with Truth* (Dover Publications, New York, 1983), pp. 284ff.
- 47 Leon Levy was the SACTU representative, although I do remember Pieter Beyleveld attending these meetings – possibly Beyleveld, as national chairman of COD, represented that organisation while Levy represented SACTU. In many respects the ethos of the National Consultative Committee is captured in the norms for co-operative government established by the South African Constitution in 1996, in which the “spheres” of government are independent, interrelated and yet distinctive. The principle behind the “consultative concept” was similar insofar as it applied to the independence and forms of interaction of these organisations.
- 48 The details were published under Yusuf Dadoo's name in *The Guardian*, 17.04.1952.
- 49 *The Star*, Johannesburg, 14.05.1952.
- 50 Dan Tloome was to become the general secretary of the SACP in the 1980s, preceding Joe Slovo.
- 51 *The Guardian*, 10.04.1952.
- 52 *The Clarion* 26.05.1952.
- 53 *The Clarion*, 29.05.1952.
- 54 Conversation with the author, Cape Town 2004.
- 55 One of the leaders banned at this time was Harry Gwala, today an icon among African youth. He was highly regarded in the 1950s and an indefatigable secretary of at least ten trade unions from which he was forced to resign in Natal. I saw him in London in the mid-1980s soon after his release from prison. He was preparing to return to South Africa and we met under careful security precautions. A giant of a man, unafraid of speaking his mind, direct and controversial, he was confined to a wheel chair and had lost the use of his hands and legs as a result of a motor-neuron disease which he developed in jail. He died in the mid-1990s. His story is more than an affirmation of his dedication to the Movement; it is a history of the struggle itself. Although he had been ordered to resign from his unions it made little difference to his activities as he ignored the ban. Others did the same and carried on illegally for a while, initially finding it difficult to deal with the political void in which their banning orders had placed them.

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- 56 *The Clarion*, 19.06.1952.
- 57 *The Clarion*, 12.06.1952.
- 58 *The Clarion*, 12.06.1952.
- 59 See “An Afterword on the Volunteers,” p.141.
- 60 *The Clarion*, 17.07.1952.
- 61 *The Clarion*, 31.07.1952.
- 62 *Advance*, 9.04.1953.
- 63 *Advance*, 20.11.1952.
- 64 Cited in *Advance*, 20.11.1952.
- 65 *Advance*, 4.12.1952.
- 66 *Advance*, 27.11.1952.
- 67 Moroka had defied the youth during the policy of boycott and separated himself from his compatriots among the accused in the “Trial of the Twenty” by employing his own defence counsel.
- 68 Albert Luthuli, *Let My People Go* (Collins, London, 1962), p. 15.
- 69 Anthony Sampson, *Mandela: The Authorised Biography* (Jonathan Ball, Johannesburg, 1999), p. 151.
- 70 Sampson, citing Joe Slovo, in *The Authorised Biography*, p. 151.
- 71 40th Annual Conference, resolution of the ANC, December 1952. Cited in *Advance* 18.12.1952.
- 72 *Advance*, 19.02.1953.
- 73 *Advance*, 5.02.1953.
- 74 *Hansard*, 19.04.1952; debates, p. 6095.
- 75 He was elected with a staggering majority of 3 183 votes, more than the number of votes cast for Sam Kahn or Fred Carneson (for the Provincial Council) in previous elections. Despite the high poll, all his opponents lost their deposits. See *Advance* 13.11.52.
- 76 *Advance*, 26.02.1953.
- 77 *Advance*, 5.02.1953.
- 78 The terms of this bill (February 1953) are again referred to below.
- 79 *The Clarion*, 14.08.1952.
- 80 Cited in *Advance*, 5.02.1953.
- 81 *Advance*, 31.12.1953.
- 82 Luthuli, *Let My People Go*, pp. 135–136.
- 83 Luthuli, *Let My People Go*, p. 136.
- 84 *Advance*, 8.04.1953. Speech made in Port Elizabeth, just after the Public Safety Act became law, in April 1953.
- 85 Cited in *Advance*, 8.04.1953. The references to interracial unity were of particular significance in view of the government provoked escalation of violence in New Brighton, Port Elizabeth.
- 86 Michael Dingake, *My Fight against Apartheid* (Kliptown Books, London, 1987). See “An Afterword on the Volunteers,” pp 140-141 above for the evidence of the mood of volunteers in their statements to the court.

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- 87 That is to say, there is no substantive work on the Defiance Campaign.
- 88 Joint statement of NEC members of the SAIC and ANC, following the Joint Conference of the NEC's of the two organizations held in Port Elizabeth, June 1952, cited in *The Clarion*, 5.06.1952.
- 89 *The Clarion*, 05.06.1952.
- 90 *The Clarion*, 24.07.1952.
- 91 *The Clarion*, 04.07.1952.
- 92 See *The Star*, 21.07.1952; *The Clarion*, 06.07.1952 and 24.07.1952. For the speech from the dock, see also Walter and Elinor Sisulu, *In our Lifetime* (David Philip, Cape Town, 2002). There are several accounts of this episode, which differ only in the minor details.
- 93 *The Clarion*, 31.07.1952.
- 94 Nelson Mandela, *Long Walk to Freedom* (Little, Brown & Company, Boston, 1994), p. 114. For the details of Boshielo's arrest and trial; see also *The Clarion*, 24.07.1952.
- 95 *Advance*, 4.12.1952.
- 96 *Advance*, 18.12.1952.
- 97 *Advance*, 18.12.1952.
- 98 *Advance*, 11.12.1952.
- 99 Conversation with Justice Sachs, December 2004.