LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

AFRICA LEGAL ASSISTANCE PROJECT

INTERIM REPORT

December 1, 1974

733 Fifteenth Street, N.W., Washington, D.C. 20005

This is a report on the work of the Africa Legal Assistance Project of the Lawyers' Committee for Civil Rights Under Law for the period April 1, 1973 to December 1, 1974.

Introduction

The Lawyers' Committee for Civil Rights Under Law was founded in 1963 at the request of President John F. Kennedy in order to involve the leadership of the American legal profession in the civil rights movement which was then sweeping the southern part of the United States. After a meeting at the White House in June of that year a group of prominent lawyers, including past Presidents of the American Bar Association and former Attorneys General of the U.S., formed a committee and thereafter set up offices in Washington, D.C., and Jackson, Mississippi. They then raised funds from the legal community to staff these offices with full-time lawyers. Substantial voluntary representation by lawyers, however, constituted the core of the efforts of the Committee, and still does. The Lawyers' Committee now has eleven full-time staff lawyers in its national office in Washington, D.C., and also has full-time staff lawyers in each of ten local offices in major cities across the country, complemented by a growing voluntary involvement of the bar. The Committee now comprises a nation-wide network of affiliated law firms and staff lawyers undertaking hundreds of civil rights cases throughout the country.

In 1967 the Committee received an urgent request from Joel Carlson, a South African Attorney, for financial assistance and involvement of the American bar in a case in which he was defending 37 Namibians against charges under South Africa's notorious Terrorism Act. The defendants were persons opposed to South Africa's illegal imposition of apartheid in that international territory. We decided that just as fundamental human rights transcend political boundaries, so too does the obligation of lawyers to press for the realization of those rights. The Committee dedicated itself to informing American lawyers of the deprecation of the rule of law in South Africa and made representations to the South African Government, the U.S. Government and the United Nations on behalf of the defendants. We also raised money to pay for the costs of the legal defense of the 37 Namibians.

Since 1967, the Committee has helped members of the South African bar bring before South African courts cases which involve the basic human rights of the people of South Africa and Namibia. The Committee's assistance has taken the form of providing modest financial support to cover the costs of litigation, and undertaking other legal tasks at the request of South African attorneys. We have also sent observers to several major political trials in South Africa and Namibia, and have identified and briefed American expert witnesses whose testimony was sought. Funds to support these efforts

have come from a number of foundations, international and national organizations, churches and individuals concerned with the international protection of human rights. Additionally, the Committee has provided legal assistance to individuals and organizations in the United States in their efforts to combat racial repression in Southern Africa.

The Africa Legal Assistance Project is composed of two full-time staff attorneys and an administrative assistant. Douglas P. Wachholz presently serves as Staff Director of the Project. The Project's work is overseen by the Executive Committee of the Lawyers' Committee, which meets with the staff attorneys on a bi-monthly basis to discuss activities and review policy. A Subcommittee of the Executive Committee concerned with the Project is available for consultation on policy matters arising between regular meetings. The Subcommittee consists of George N. Lindsay of Debevoise, Plimpton, Lyons and Gates, New York, N.Y., who has served as Chairman; Goler Teal Butcher of White, Fine & Ambrogne, Washington, D.C.; Theodore C. Sorensen of Paul, Weiss, Rifkin, Wharton and Garrison, New York, N.Y.; Ramsey Clark of the New York bar; James M. Nabrit, III of the National Association for the Advancement of Colored People Legal Defense & Education Fund, Inc., New York, N.Y.; E. Clinton Bamberger, Jr., Dean, Catholic University Law

School, Washington, D.C.; and Peter J. Connell, Washington, D.C. Counsel for the Aetna Life Insurance Company.

The purpose of the Project is to provide legal assistance both to victims of racial repression in Southern Africa and to individuals and organizations in the United States working to promote human rights in Southern Africa. We attempt, by effective legal action, to make the white-minority governments of Southern Africa aware of their obligation to respect the human rights of their people.

The Project serves as a legal resource for those concerned with the foreign policy decision process of the U.S. and other governments on matters affecting their international legal obligations with regard to Southern Africa. We have increasingly directed our efforts toward heightening the awareness of lawyers to the critical status of the rule of law in white-ruled Africa. These efforts will hopefully promote a growing involvement on the part of legal professions in the United States and elsewhere directed toward an understanding of that area's massive problems.

During the past year the Africa Project has strengthened ties with lawyers in Southern Africa, and involved itself in a substantial number of important human rights cases in that troubled part of the world. It has expanded the scope of its domestic legal activities in the U.S. by assisting a growing number of organizations and persons concerned with the problems of repression in white-ruled Africa, and

has continued to actively consult with officials in the U.S. Department of State, members of the U.S. Congress, and members and representatives of foreign governments. We have sought the active involvement of the American legal profession, and have been encouraged by the response. We have initiated contacts with lawyers in Europe and elsewhere hoping to cooperate with them to a greater extent in the future. This aspect of the Project's work has begun to gather momentum as both its domestic and foreign work have achieved higher visibility.

Direct Legal Assistance in Southern Africa

The Project has been called upon often to provide legal assistance to black political leaders and other opponents of apartheid in South Africa and Namibia who have been detained incommunicado or arrested under one of the many repressive statutes. There have been an especially large number of such actions recently in Namibia. The situation there has taken on a new and critical dimension with South African Police employing a range of techniques which seriously jeopardize the human rights of black Namibians: (1) public floggings; (2) mass arrests of opposition political party leaders, members and supporters; (3) general harassment of black opponents of South African rule to the degree that many Namibians fled to neighboring Angola.

Public Floggings and Repression in Ovamboland. In September, 1973 we received a telephone call from the Windhoek law firm of Stern & Barnard informing us that nine Ovambos were to be tried in Ondangwa, Ovamboland, under the so-called "Emergency Regulations" on charges related to their holding, addressing or being present at "illegal meetings". The Lawyers' Committee agreed to support the legal defense of these persons in an action entitled The State v. Keshi Nathaniel and Others. Each of the defendants was found guilty and sentenced to 200 Rand ($300) or six months in prison, of which half was suspended for a period of three years on condition that the defendant not be found guilty of any charge under the "Emergency Regulations" within that period. A second charge against Keshi Nathaniel was suspended in toto. No appeals were lodged.

During the week of October 22-26, 1973 a series of events took place in Namibia which caused us great concern. First, black opposition political leaders Johannes Nangutuuala and Andreas Nuukwawo were summarily detained without trial or opportunity for defense, and publicly flogged by pro-apartheid tribal authorities in Ovamboland. Mr. Nangutuuala was given twenty-one lashes and Mr. Nuukwawo sixteen lashes on their naked bodies with the sharp rib of a palm branch, and both men had to be hospitalized for treatment after the floggings. Both men had just been released from the custody of the South African Police, who had detained them without formal charge under Proclama-

tion R. 17/1972 (the so-called "Emergency Regulations" applicable to Ovamboland). Second, tribal police in the Kwanyama area of Ovamboland forced the Anglican Archdeacon of Odibo, the Venerable Philip Shilongo, to vacate St. Mary's Mission despite a court order that he was not to be removed, and struck the Anglican Archdeacon of Owambo, the Venerable Lazarus Haukongo, on the side of the head with a wooden baton, after which he had to be hospitalized.

These events indicated that the rule of law had been cast aside in Namibia and replaced by arbitrary and brutal oppression by South African authorities. These acts constitute a gross violation of the South African Government's obligation to withdraw its administration from Namibia and, in the interim, to safeguard the rights of the people of Namibia. This obligation is authoritatively spelled out by the International Court of Justice in its Advisory Opinion of June 21, 1971 concerning the status of Namibia.

The Project instructed counsel in Namibia to act on behalf of Messrs. Nangutuuala and Nuukwawo in their defense against criminal charges brought against them in May, 1973 for allegedly holding an "illegal meeting" in Owambo. A long trial was held in their case and the two men were eventually convicted. On September 20, 1973 Nangutuuala was sentenced to 400 Rand ($600) or two years in prison, half of which was conditionally suspended, and Nuukwawo was fined 100 Rand ($150) or six months in prison, all of which was suspended

conditionally. After the trial the two men were held by South African police without charges under the "Emergency Regulations", and later handed over to tribal authorities during the week of October 22-26, 1973. They were then publicly flogged by these tribal authorities after being charged with other offenses concerning which they had no trial and against which they had no opportunity to defend themselves.

We cooperated with Lutheran Bishop Leonard Auala, Anglican Bishop Suffragen Richard Wood and South West Africa Peoples Organization (SWAPO) leader Thomas Komati in instructing lawyers in Windhoek and Johannesburg to represent the victims of floggings in obtaining an injunction against the practice, and committed US$5,000 toward their legal costs. We also instructed Windhoek lawyers to represent these persons in civil actions for damages.

A temporary injunction against public floggings was granted (under certain conditions) by the Supreme Court for South West Africa as a result of the legal action brought by Auala, Wood and Komati; however, the Court in its final adjudication on the case denied the plaintiffs a permanent injunction because the presiding Justice held that the plaintiffs lacked standing to bring the action. That ruling is now on appeal before the Appellate Division in Bloemfontein, the highest court in South Africa, and the lawyers for the plaintiffs/appellants believe that their chances for success are good. If the appeal succeeds, the prospects for success in civil damage actions brought by

victims of the floggings would be considerably enhanced. If the appeal is not successful, an action brought by floggings victims and SWAPO leaders threatened with floggings is planned. Unlike the present action, such an action could not be dismissed for lack of standing on the part of the plaintiffs.

The civil actions for damages as a result of illegal floggings and physical assaults are still pending. No known floggings have taken place in recent months.

Mass Arrests. Throughout the past year South African Police and their surrogates, the Ovamboland bantustan authorities, have harassed by various techniques those struggling for human rights and self-determination in Namibia. From time to time South African Police have raided the black township outside Windhoek (Katatura) and detained scores of individuals, most of whom were SWAPO members or sympathizers. The Project instructed lawyers to report on the situation and represent the detainees. Individuals were fined small amounts of money and eventually released within a short period of time. However, in January South African Police arrested over 300 persons within one week, including virtually the entire leadership of SWAPO and the SWAPO Youth League.

Whereas most of the detainees were eventually released, an unknown number of persons were held incommunicado by South African Police under Section 6 of the Terrorism Act, which permits detention

by authorities without their having to release any information as to the detainees to anyone except the Minister of Justice. The detainees included David Meroro, Chairman of SWAPO, and other members of the SWAPO Executive Committee. At the time of the detentions we instructed the attorneys H.J. van Biljon & Co. to obtain information on the detainees and to represent their interests to the extent legally possible. When the attorneys were refused any information or access to the men by South African authorities, we made representations of our concern for the detainees to the Honorable Sean McBride, the U.N. Commissioner for Namibia; the U.S. Department of State; and the Subcommittee on Africa of the House of Representatives Foreign Affairs Committee. Because of our communications to the Subcommittee on Africa, hearings on the situation were scheduled and Staff Director Douglas Wachholz was asked to testify before the Subcommittee on Africa by its Chairman, Congressman Charles C. Diggs, Jr. Mr. Wachholz's testimony was given wide circulation by the Subcommittee, the U.N. Commissioner for Namibia, and the Lawyers' Committee, which sent copies of his testimony to a large number of lawyers and others throughout the world. He was interviewed by the United States Information Agency for a radio program which was broadcast throughout Africa, and the Lutheran Council of the U.S.A. excerpted portions of his testimony for an article on denials of human rights in Namibia which was printed in their publication Focus, which is sent to Lutheran congregations throughout this country. (A copy of his testimony and the Focus article are appended as Attachment I.)

After detaining them for five months in solitary confinement, South African Police released the men at intervals during May, June and July, 1974. Upon release, Ezriel Taapopi and Joseph Kashea were charged with (1) attempted incitement to commit murder or public violence or malicious damage to property, and (2) with inciting, instigating, commanding or procuring Sam Nujoma (an exiled SWAPO official in Lusaka, Zambia) to commit murder or public violence or malicious damage to property. The Project instructed H.J. van Biljon & Co. to represent Messrs. Taapopi and Kashea at their trial in Windhoek, and cooperated with Amnesty International in London to send Professor Cedric Thornberry of the London School of Economics to observe the trial. The men were found guilty by the court on July 29, 1974, and each was sentenced to five years imprisonment, three years of which were suspended. The convictions are now being appealed. Both van Biljon & Co. and Professor Thornberry believe there is a solid basis for appeal. The Project has committed US$5,000 for the payment of legal fees in connection with the appeal of their conviction.

David Meroro and Thomas Komati were also charged with crimes upon release from solitary confinement: Meroro with illegal possession of banned literature, and Komati with "malicious destruction of government property", to wit, writing on the wall of his solitary confinement cell. Bishop Richard Wood informed us by telephone

of these matters, and advised us to instruct Tim Owen, a young attorney who had just set up practice in Windhoek, to defend the men, which we did.

Mr. Owen, in turn, instructed Advocate David Soggot from Johannesburg to litigate the case. They introduced expert psychiatric testimony to demonstrate to the court and, hence, to the world, the severity of five months in solitary confinement without charges and the effect it has upon one so detained. We made an initial commitment of US$2,000 to the payment of legal fees in these cases. Subsequently, Thomas Komati fled to Angola. David Meroro's case is still pending.

Namibian Refugees in Angola. During June and July of this year over one thousand Namibians fled across the border into Angola to escape persecution by South African officials and Ovamboland bantustan authorities. The refugees are primarily educated Namibians, including many SWAPO members and leaders. Many of the refugees were detained by Portuguese military authorities in various parts of Angola. Those detained requested either political asylum or immigrant status in Angola. There was immediate concern that the Portuguese might extradite them back to Namibia at the request of South African officials, which would subject them to even greater persecution, if not imprisonment. The Project learned about the matter through the U.N. Commissioner for Namibia and the U.S. Department of

State. We consulted with the Embassy of Portugal to the U.S. to obtain more information, and then called Dr. Diogenes Boavida, a prominent black Luanda lawyer known for his representation of blacks in human rights cases, to ascertain more of the facts. We then instructed him to represent the refugees in their pleas for political asylum and immigrant status, and to insure that they were not summarily extradited to Namibia against their will. Douglas Wachholz learned of Dr. Boavida through attorneys in South Africa and Mozambique with whom the Africa Project had cooperated, and spoke to him in Portuguese, which Mr. Wachholz speaks fluently.

Communications were then sent by the Lawyers' Committee to the U.S. Department of State and Dr. Mario Soares, the Minister of Foreign Affairs of Portugal, indicating that it would be a violation of international law for the Portuguese to extradite the Namibians to the custody of South African authorities. The letter also requested specific information as to their status. Officials at the Portuguese Embassy in Washington, D.C., were receptive to the Committee's concerns, and urgently cabled Dr. Mario Soares in support of our representations. Additionally, Mr. Wachholz communicated with Dr. Francisco Pinto Balsemao, Director of the leading Portuguese newsweekly Expresso, concerning the situation. Expresso printed an article on the Committee's letter to Dr. Soares on Page One of its

July 27 edition. Thereafter, the Namibians were released from incarceration and were permitted to travel freely to Zambia. None were extradited.

Many Namibians continue to cross the border into Angola. During his trip to Angola Mr. Wachholz learned that the Portuguese authorities in Angola are sympathetic to the plight of the Namibian refugees, and are permitting them passage to Zambia, which is the ultimate intended destination of most of them. The Portuguese wish to keep a "low profile" in this matter in order not to antagonize the South African Government, and to avoid appearing hypocritical. (Remember that the pre-April 25th Portuguese Government vociferously criticized Zambia and Tanzania for providing sanctuaries for liberation forces.) Also, they emphasize that this is a strictly humanitarian situation not involving armed insurgency. Mr. Wachholz's discussion in Lisbon with Dr. Almeida Santos, Portuguese Minister for Inter-territorial Coordination, revealed that the Portuguese Government will under no circumstances permit extradition of Namibian refugees to South African custody. He received assurances that Portugal will continue to grant political asylum to refugees from Namibia.

The prospects for the Africa Project's effectively providing legal assistance in Namibia have improved during the past year with the naming of the Honorable Sean McBride, former Foreign Minister of Ireland, to the position of United Nations Commissioner for Namibia. His work in that position, along with his life-long dedica-

tion to the cause of peace and justice in the world, earned him the Nobel Peace Prize for 1974. Mr. McBride has also previously served as Secretary-General of the International Commission of Jurists and Chairman of the International Executive of Amnesty International. We have developed a close working relationship with Mr. McBride through almost daily communications with him, and we look to his leadership, advice and counsel in our efforts not only in Namibia but in the rest of Southern Africa as well.

Mr. Wachholz and members of the Lawyers' Committee have consulted, inter alia, with many important figures in the struggle to insure self-determination and human rights in Southern Africa including Dr. Beyers Naude, Reverend Theo Kotze, Dr. Manas Buthulezi, and Attorney Raymond Tucker of South Africa; Bishop Colin O'Brien, Bishop Suffragen Richard Wood, Advocate Brian O'Linn, Bishop Leonard Auala, Chief Clemens Kapuuo, Theo Ben Gurirab, Peter Katjavivi and Bishop Lucas deVries of Namibia; attorney and Member of Parliament Godfrey Chidyawsiku, M.P. Ronnie Sadomba, Bishop Donal Lamont, Attorneys Anthony Eastwood and Chris Bishop of Zimbabwe (Southern Rhodesia); Dr. Diogenes Boavida of Angola; and Attorney Jose Adriao Rodriquez of Mozambique.

Schlebusch Commission Contempt Trials. In South Africa, recent government intimidation has focused on the principal civil rights organizations opposed to apartheid. The Government appears

to be attempting to discredit those affiliated with such organizations prior to "banning" their leaders and otherwise impeding their effectiveness by legalistic means. The Parliamentary Commission of Inquiry, commonly known as the "Schlebusch Commission", was constituted by Parliament in 1972 and has since become an important official vehicle for silencing government critics. It began hearing, in secret, testimony concerning the South African Students Organization (SASO) and the National Union of South African Students (NUSAS), and then, after issuing a critical report, "banned" seventeen of the most important leaders of the two organizations in February and March, 1973. When the Christian Institute and Institute of Race Relations began to be investigated by the Commission shortly thereafter, the leaders of these two organizations refused to testify before it because of the secrecy of the hearings, the lack of minimal procedural standards and what they believed to be predetermined conclusions. They were then prosecuted for contempt of the Commission for their refusal.

Some of the defendants were convicted, and one of them, Dr. Beyers Naude, the Director of the Christian Institute, appealed to the Supreme Court on the theory that the Schlebusch Commission was not properly constituted when he testified before it because less than all of its ten members were present and sitting. His conviction was overturned on that basis. Charges were dropped against those defendants who had not been tried, because all witnesses had testified

before less than all of the members of the Commission sitting together. However, convictions obtained prior to the decision remained in force. Those cases in progress were adjourned. Dot Cleminshaw, one of those convicted, appealed to a different panel of judges of the same division of the Supreme Court on the same theory as that of Dr. Naude. Her conviction was affirmed -- in flat contradiction of the recent precedent established by the Court in the Naude case. The judges who wrote the Cleminshaw opinion simply said that the Naude case had been decided wrongly. Ms. Cleminshaw appealed her case to the Appellate Division in Bloemfontein, as did the Government in Dr. Naude's case. That Court upheld the Government's appeal in the Naude case, and, presumably, will dismiss Ms. Cleminshaw's appeal in the near future.

The Project is assisting David Dallas, of the firm Fuller, Moore and Son of Cape Town, by payment of the legal fees involved in the defense of Rev. Theo Kotze against the contempt charge. Three thousand eight hundred and sixty dollars (US$3,860) have been transmitted thus far. The case has been adjourned since Dr. Naude's conviction was overturned.

The State v. Naude, Randall and van Zyl. The South African Government also attempted to discredit the leaders of the Christian Institute by instituting charges pursuant to the Suppression of Communism Act in November, 1973 against Dr. Beyers Naude, Peter

Randall and Rev. Danie van Zyl, Directors of the Ravan Press, the printing and publishing arm of the Christian Institute. Specifically, the Christian Institute leaders were charged with publishing the statement of a "banned" person. Under the Supression of Communism Act the statements of a person who is banned may not be printed, even if the quote is derived from a time before the person was banned and the publication was printed before the banning. The Ravan Press allegedly had possession of books containing the quotes of a banned NUSAS leader, Paul Pretorius, printed before Pretorius was banned. The Project arranged for Dean Monrad Paulsen of the School of Law of the University of Virginia, a noted American criminal law authority, to go to South Africa to observe the trial. At the last minute he was unable to go, and Professor Luvern Rieke of the University of Washington Law School made the trip. Professor Rieke attended the trial, which was adjourned on the first day of his attendance because two of the Government's witnesses (both police officers) became mysteriously unavailable. His observer's report on the trial was widely disseminated by the Lawyers' Committee.

The Court subsequently found the defendants not guilty and dismissed the charges against them. It held that the Ravan Press did not have possession of the books containing Mr. Pretorius' statements.

Pelser v. van Niekerk and the Sunday Times. A new South

African Government tactic designed to silence its critics is the institution against them of civil actions for damages. This tactic is manifest in the suit by Mr. Pelser, the former Minister of Justice, against Professor Barend van Niekerk, an outspoken critic of apartheid and the death penalty, and The Sunday Times. Mr. Pelser alleged that he was personally defamed by Professor van Niekerk, and is claiming damages of 50,000 Rand (US$75,000). Professor van Niekerk had stated to the Sunday Times in an interview that he believed that the Government had acted discriminatorily by granting a pardon to a white man who was sentenced to death when his black accomplice to a murder was allowed to be executed. Van Niekerk pointed out that there was evidence at the trial that the black man was actually directed by the white man in the perpetration of the crime. The implications of this case for the freedom of speech in South Africa are enormous.

The Project was informed of the action by Professor van Niekerk, and we have kept closely informed on its progress. The defendants in the action filed an exception (tantamount to a motion to dismiss in American jurisprudence) in May, 1974 and it was heard before the court in Pietermaritzburg in June. The Project was asked to supply legal research on the New York Times v. Sullivan line of American cases construing the First Amendment to the U.S. Constitution's protection of the freedom of speech to van Niekerk's

counsel for use in the proceeding. We contacted several prominent American constitutional law authorities, including Professors Harry Kalven, Tom Emerson and Herbert Wechsler, for advice. Harvard Law School Professors Abram Chayes and Derek Bell agreed to coordinate the work of two Yale Law School students who volunteered to work on the preparation of a brief/affidavit. One of the Yale students is Ms. Margaret Marshall, former President of the National Union of South African Students (NUSAS), who is now in residence in the U.S. The Project arranged for American Professor Lawrence Church, a Fulbright fellow teaching at the University of Zambia School of Law, to observe the exceptions proceeding in South Africa on behalf of the Lawyers' Committee and the International Commission of Jurists. His presence there was widely noted in the South African press, and, according to information from Professor van Niekerk and the U.S. Department of State, this had a dramatic impact on the proceeding. It was the first known instance of an outside legal observer attending a civil, as opposed to a criminal, proceeding in South Africa. Professor Church's report was disseminated widely not only among American lawyers, but also in international legal circles.

The Court, in a very cryptic opinion, denied the defendants' motion to dismiss without addressing itself to the significant free speech/free press issues raised by them. The denial of the motion is now being appealed to the Appellate Division. Professor Church

is planning to publish an article discussing the case in a leading international law journal in order to publicize the significance of the issues raised for freedom of speech and dissent in South Africa. Hopefully, the article will appear before the Appellate Division hears the case.

Buthulezi v. To The Point. Dr. Manas Buthulezi, South Africa's most prominent black theologian and Director of the Christian Institute for Natal Province, was defamed in January, 1974 by the conservative South African magazine To The Point, which claimed that he had advocated the assassination of Prime Minister Vorster and former Prime Minister Verwoerd. Dr. Buthulezi had previously been "banned" on December 14, 1973. He immediately instituted a libel action and the Supreme Court upheld his claim by ordering the magazine withheld from the market. Three months later his banning order was lifted.

The Project committed funds for the payment of outstanding unpaid legal costs in the action, and made representations to the U.S. Department of State concerning Dr. Buthulezi's banning. We were informed by the State Department that the U.S. Government strongly communicated its concern over the banning to the South African Government. We also met with Dr. Buthulezi during his trips to the U.S. this past year.

Cases Involving Black Economic Rights. The black movement for greater economic rights has generated legal actions in which the Committee has taken part. We have taken a special interest in these matters, and have instructed lawyers to represent detained black strikers in Durban on several occasions. In each instance the strikers have been almost immediately released after the payment of light fines. We are pursuing our interest in economic matters by discussions with South African attorneys and others in an attempt to find ways in which legal actions can effect institutional, long-term changes.

The Project had talks with South Africans visiting the U.S. who described two potentially important actions which might be instituted: one would seek to establish the right of black workers to strike, not as members of a black union (which cannot be registered under South African law), but as individuals. The other would attempt to establish a legal precedent that black workers may not be prosecuted criminally (as they now are) for terminating their employment contracts when the employer violates the terms of the agreement and provokes the termination of the contract by the black worker. We expect them to inform us of the prospects for such actions in more detail in the near future.

Gordon Young, a NUSAS executive in Cape Town who has devoted a great deal of effort toward furthering the rights of black

workers, met with us during a visit to this country and encouraged our legal assistance in economic matters. After information was forwarded to us by Mr. Young, we agreed to assist Mr. Stanley Kawalsky, an attorney in Cape Town, in bringing an affirmative action seeking legal recognition of a black workers' registered works committee by a company in the face of the company management's unlawful refusal to grant the committee such recognition. The management had refused despite the fact that all the company's black employees had signed a document granting the works committee the right to represent them. We believed that this action would have important precedential value for similar actions elsewhere in South Africa, thus we made an initial commitment of US$500 toward the prosecution of the case. Mr. Kawalsky wrote a letter to the management of the firm pointing out that the law permitted a works committee to be formed and recognized. The director of the firm went to see Mr. Kawalsky, flung the letter on his desk, and told him "not to interfere in the affairs of a private company". The lawyer replied by showing him the petition signed by every black worker at the firm!

Senior counsel was approached, and the affair was due to go before the Supreme Court upon an application for an interdict, when things came to a head at the company. One of the workers' leaders was summarily sacked. The entire workforce of the company then downed tools and refused to go to work. They simply stood in a

crowd inside the factory. When management warned them that striking was illegal, the workers bluntly told them they wanted three things: the re-instatement of the fired worker, the establishment of a works committee and management's agreement that the works committee could join the Western Province Workers' Advice Bureau.

After three hours, management capitulated to all three demands. The fired worker was fetched from his home and given a new overall, and management announced that they agreed to the other two demands. It was the first known strike in Cape Town for about 12 years, and has been seen as a great victory for the workers involved. Since the strike, a half dozen factories in the locality have been organized along the same lines.

Although the workers proved that their own direct action has the most immediate results, there is no doubt that the threat of legal action in the Supreme Court persuaded the management to be very careful in their reaction. Our involvement was felt to be important.

Subsequent to this action NUSAS and NUSWEL (the arm of NUSAS concerned with black economic rights) were deemed "affected organizations" under the new Affected Organizations Act, which prohibits organizations deemed "affected" by the Minister of Justice from obtaining funds from foreign sources. This action by the Government is part of an obvious attempt to silence these organizations, because both of them receive a good portion of their funding from overseas

human rights groups and churches. Because transmission of legal fees to lawyers in South Africa is not covered by the Act, we can continue to support such cases in conjunction with NUSAS and NUSWEL. In fact, the use of legal techniques may become an even more important vehicle for assisting blacks in the economic field than it previously was because much of the NUSAS budget was based on funding which is no longer available to them under the Act.

The State v. Gladman Ndebele. Halton Cheadle, the National Organizer for the Textile Workers Industrial Union (S.A.), wrote the Project on September 21, 1973 regarding the defense of Black workers who were involved in an illegal strike at the Consolidated Textile Mill in Durban. Blacks have virtually no right to strike under the law, and many of the striking workers were charged under the Riotous Assemblies Act and the Industrial Conciliation Act. Some were apparently detained incommunicado by Security Police for over a week. Of particular interest is the fact that the Textile Workers Industrial Union is a "Coloured" and "Indian" workers union which is registered under the law. No Black union may be registered. The Union represents only 10% of the work-force at Consolidated Textile Mill, the other 90% being Black.

We responded affirmatively to Mr. Cheadle's request. We believed the petition by a "Coloured" and "Indian" union on behalf of Blacks to be an especially encouraging development. While awaiting reports on the outcome of the case, and the projected legal ex-

penses, we learned that Mr. Cheadle and two other members of the Union were banned. We consulted attorneys as to any possible legal action, and learned that none was possible at that time.

The State v. Sathasivan Cooper and Others, and The State v. Musa Ephraim Mdlalose and Others. These actions, which originated in March, 1973, involved SASO members in the Magistrate's Court in Durban. In the first case the defendants were charged with promoting racial hostility in violation of the Bantu Administration Act and the Bantu Labour (Settlement of Disputes) Act. They were alleged to have distributed pamphlets in support of the workers' strikes in Durban last year. In the second action, the defendants were also charged with promoting racial hostility by allegedly being involved in the preparation and/or distribution of material for discussion at a meeting at the University of Natal which was apparently attended by security police agents. Justice Poswa, a black attorney from Durban, was instructed in these cases. All the accused were acquitted.

Western Deep Levels Mine Protests. The Project instructed Attorney Raymond Tucker of Johannesburg to represent the families and relatives of the twelve miners shot to death as a result of workers' protests at the Western Deep Levels gold mine near Carletonville on September 11, 1973. Attorney Tucker also accepted instructions to defend the eleven other miners who were criminally charged as a result of the protests. The Government prevented his being able to

effectively intervene at the inquest, and the criminal charges were mooted by the acquiescence of South African authorities in the defendants' departure to their homelands. We had committed US$2,000 to these actions.

Robben Island Prisoners Case. In August, 1973 the Project received a request from Mrs. D. Venkatrathnam (Naidoo) of Durban for assistance in helping her to settle the US$7,000 outstanding account with attorneys who acted on behalf of Robben Island Prisoners in their successful application to the Cape Supreme Court for restoration of certain of their rights and privileges. Her husband is one of the prisoners who made the legal application. While we do not normally commit legal assistance funds to cases which have already been adjudicated, we made an exception in this case. We offered to initially send US$1,000.00 toward settling the account, hoping that other persons and organizations would contribute the remainder. We felt that it was important to encourage litigation by Robben Island prisoners by helping to remove their fears of unpaid legal costs. Also, we hoped that a demonstration of the Lawyers' Committee's interest and concern would bolster the morale of the inmates and their relatives.

On November 28, 1973 we received correspondence from Mrs. Venkatrathnam that the entire outstanding account had been paid and that our financial support would not be needed. In the letter she described another legal matter involving Robben Island prisoners that

was planned for the future and asked our support. We responded that we would seriously consider such a request.

Riemvasmaak Removal. In February, 1974 the Project cooperated with the U.S. Catholic Conference in trying to assist the former residents of Riemvasmaak, a town in the Northern Cape region of South Africa. A South African bureaucrat decided that the 920 people living peacefully in that town belonged in Damaraland in Namibia, because they had been officially classified "Bantu", and people of such a classification could not live in the Northern Cape. They were then "removed" to Namibia -- 1,300 kilometers from Riemvasmaak -- in a convoy of cattle trucks. The former Riemvasmaakers had fled Namibia sixty years before and intermarried with the local Coloured and Nama populations in the area of Riemvasmaak, hence they were racially mixed. Several years after they arrived in Riemvasmaak, they were told that only if they accepted the "Bantu" classification could they stay there. Because of this most of them then accepted the "Bantu" classification. The South African Government, thus, played a cruel hoax on them by "removing" them because of their "Bantu" classification.

We contacted Cape Town attorney David Dallas and requested that he advise us whether any legal action on behalf of the Riemvasmaakers was possible (1) to restore them to their Northern Cape village, (2) to compensate them for the removal, and/or (3) to assist

them in resettling in Namibia. He advised that even obtaining sufficient facts upon which to make such a judgement would be extremely expensive, given their distant new location, and the potential for a successful legal action was slight. We concurred in Dallas' advice, and suggested to the U.S. Catholic Conference that they might wish to assist through non-legal church organs.

Alexander v. The Minister of Justice. This case represents a potentially very important precedent in South African jurisprudence. Mr. Alexander, a black man, had been imprisoned for 10 years on Robben Island following a conviction in 1964 of contravening Section 21 (1) of Act 76 of 1962 in that he "conspired with others to commit unlawful acts which alledgedly would have endangered the Republic of South Africa". He was released on April 13, 1974. However, five days before his release, on April 8, 1974, he was "banned" by the Minister of Justice pursuant to Sections 9 and 10 of the Supression of Communism Act. Mr. Alexander, through his Cape Town attorney Michael Richman, filed suit to overturn the banning order on the basis that the Minister had no legal basis for the banning within the terms of the Act, and, therefore, was acting with mala fides. The affadavits filed on behalf of Mr. Alexander demonstrate that his 10-year incarceration on Robben Island prevented him from "furthering the aims and objects of communism"; and they allege that the Minister of Justice, therefore, must have been acting in bad faith. Should Alexander's banning order be overthrown for those

reasons, future bannings may be challengable on the same or similar grounds. We sent Michael Richman US$3,000 to support his representation of Alexander, and have sent him copies of some American cases, including those involved in the "Watergate" scandal relating to former President Nixon's attempts to withhold his tape recordings from the courts, the U.S. Congress and the Special Prosecutor, which indicate the legal limitations on executive privilege in this country.

SASO & BPC Detentions. When we received information concerning the detention and torture by South African authorities of many of the leaders of the black consciousness movement, including members of SASO (South African Students Organization) and BPC (Black Peoples Convention), as a result of planned pro-Frelimo rallies, we responded quickly by contacting South African attorneys Raymond Tucker and S.N. Chetty. They informed us that at least 37 persons were being held and that an action to prevent them from being further tortured was to be filed. We felt that this clearly represented a further attempt to destroy the developing black consciousness movement. We therefore advised these lawyers of our interest in the case and our availability for financial support, and we have made oral representations to the U.S. Department of State on behalf of the detainees. We anticipate that this action will involve a great deal of our energies in the coming months.

Clients and attorneys on the firing line in Southern Africa have told us that effective legal assistance is important in actually saving opponents of racial repression from execution, many years behind bars and official harassment. We are convinced our work gives these civil rights leaders confidence that if their efforts trigger governmental attempts to silence them the Project will be there to help provide the necessary legal assistance. This bolsters morale, and helps counter the feeling of isolation. The Lawyers' Committee's involvement in cases, either by providing financial assistance or by sending observers to trials, heightens the awareness of the issues in South Africa and the rest of the world, and the presence of foreign observers forces the local judicial proceedings to more closely conform to the rule of law.

We believe that it is crucial to the future solution of Southern Africa's racial and political problems that able opposition spokesmen be protected to enable them to lead the effort for black self-determination and human dignity. It is essential to this endeavor that legal assistance be ensured for them. They will continue to need the moral and financial support of overseas organizations. The Lawyers' Committee has provided this support on a sustained basis since 1967.

The Project has raised funds to pay the costs of legal actions in Southern Africa. But raising the funds is only part of the job. The

crucial element is developing and maintaining the kind of close professional relationship with lawyers in Africa that induces them to turn to us for assistance and enables us to assess the merits of a case and respond quickly. Again, this requires the continuing attention of staff. During the past year we have strengthened ties with a number of lawyers in Southern Africa, and have met and formed professional relationships with a number of others. We met with Michael Richman, an attorney in Cape Town; Sidney Kentridge, Johannesburg advocate; Reginald Ngcobo, Durban attorney; and Bryan O'Linn, Windhoek advocate, during their travels to the U.S. in the past year. The Committee has also met with Raymond Tucker, David Dallas, Erhard Fick, Diogenes Boavida, Godfrey Chidyawsiku, Anthony Eastwood, Chris Bishop, Jose Adriao Rodriquez, and many other Southern African lawyers through visits of staff lawyers and others to Southern Africa.

Coordination with international organizations on the provision of legal assistance has been increased over the past year. Close contacts with the United Nations, International Commission of Jurists, Amnesty International and the International League for the Rights of Man have enabled us to insure foreign observers at a number of important trials in Southern Africa which otherwise might not have had observers. We also have attempted to serve as a coordinating body for channeling funds for the provision of legal assistance in Southern Africa because of our experience in this area.

Discussions with visiting South African lawyers and others confirm our belief that the Project's assistance is going to be even more important in light of the recently-passed Affected Organizations Act, which makes it possible for the South African Government to prohibit certain "political" organizations from receiving foreign funds. The Act does not apply to the use of foreign money to pay for legal costs, thus our provision of legal support funds is not affected by the Act. Indeed, groups which are deemed "affected organizations", and thereby deprived of foreign funds, may choose to more often engage in legal actions to achieve human rights goals. As previously indicated, both NUSAS and NUSWEL have recently been classified as "affected organizations".

The Project has been searching for new ways in which it can more effectively render assistance, including the provision of direct legal assistance to blacks in Southern Rhodesia. We have recently met with exiled Rhodesians in the United States and Europe and Bishop Donal Lamont, the Catholic Bishop of Umtali in Rhodesia, in order to determine how we can provide legal and financial assistance in Rhodesia. During his August trip to Southern Africa Douglas Wachholz met and spent a great deal of time with lawyers and others in Rhodesia concerned with the rights of blacks in that territory. He developed relationships with several lawyers who have defended blacks detained by

Rhodesian police on political charges, including Anthony Eastwood and Tim Tanser of the Scanlan and Holderness firm in Salisbury, and Chris Bishop of the firm Gollop and Blank. Several black lawyers, members of the Rhodesian African Bar Association, also discussed the Lawyers' Committee's support of their representation of blacks whose human rights are violated. They included Godfrey Chidyawsiku, a black Member of Parliament, and G. M. Chinengundu. An arrangement was worked out with these lawyers to coordinate their efforts in seeking financial support from the Lawyers' Committee and in sending information on political trials to us. A number of other prominent opponents of the Smith regime's repressive tactics were also contacted.

We are planning a program which calls for several prominent American law firms to commit themselves to having at least one of their partners on call at all times ready to go to Southern Africa to serve as an observer at an important political trial. This would entail each such firm insuring that one or two of its lawyers has current visas to all the countries and territories concerned. The firms would be asked to send and pay for the expenses of a trip by one of these lawyers to Southern Africa to observe a trial.

The Project is presently communicating with South African lawyers in order to help organize a committee of lawyers in South

Africa which would operate in a fashion roughly analogous to the Lawyers' Committee.

The Project is also exploring the possible utilization of the United Nations Commission on Human Rights for cases where domestic remedies are unavailable, or have been exhausted to no avail. We plan to disseminate information to lawyers on the procedures for bringing complaints before the Commission and the Subcommission on Human Rights.

Domestic Legal Action

The Project has been called upon to render legal advice and provide representation on a growing number of matters for a variety of persons and domestic and international organizations. We have been acting on requests for legal assistance in matters which have the potential for affecting direct change in Southern Africa and increasing the awareness of the world community regarding racial repression in Southern Africa. We have also sought to render legal aid to refugees from Southern Africa seeking asylum and permanent residence in the U.S. In these efforts we have tried to involve American and European lawyers whenever possible in order to increase the work which can be done and provide various legal organizations, especially the American bar, with the maximum possible exposure to the human rights problems of Southern Africa.

We recognize the need for a growing American and international constituency informed on the issues of racism and self-determination in Africa. The Project is attempting to bring lawyers into this constituency through the utilization of domestic legal techniques in the U.S. We also serve this growing constituency by acting as a clearinghouse for legal services. As the Project's work has become better known, the number of clients seeking our services has grown. We have improved our knowledge of South African law by purchasing for our office a complete set of the Statutes of the Republic of South Africa.

The development of strong lawyer-client relations with American groups seeking to promote human rights in Southern Africa results in our being called upon for legal advice in a large number of domestic actions undertaken by these groups. Members of Congress, both Senators and Representatives, have increasingly asked the Project for legal advice and assistance on matters involving human rights in Southern Africa.

American Committee on Africa v. The New York Times. In an important decision, the New York City Human Rights Commission on July 19, 1974 upheld a complaint brought by the Project as counsel for the American Committee on Africa, African Heritage Studies Association, One Hundred Black Men, Inc., and Judge William H. Booth, and ordered The New York Times to cease and desist from the publication of commercial advertisements for employment positions in

South Africa. The Commission ruled that ads for South African employment express discrimination to New York residents and are, therefore, unlawful under New York law. The Commission referred in its opinion to South Africa's racially-repressive system of apartheid which compels discrimination against blacks in many endeavors of life, including employment.

The New York Human Rights Law provides in Section Bl-7.0(1)(d) that it is an unlawful discriminatory practice for an employer or employment agency to print or circulate advertisements for employment which express, directly or indirectly, any limitation, specification, or discrimination as to race or color. Section Bl-7.6 also makes it unlawful to aid or abet such printing or circulation.

The ruling resulted from a complaint drafted by the Project and filed with the Human Rights Commission on October 12, 1972 which cited the publication in The New York Times of ads for jobs in South Africa even after letters from the American Committee on Africa had informed the newspaper of the unlawfulness of the publication of such ads. The matter was argued at a hearing before the Commission on January 14 and 30, 1974.

The Project was assisted in presenting the case by Peter Weiss, Center for Constitutional Rights, New York, N.Y.; Michael Davis, Rogers Hoge & Hill, New York, N.Y.; and Elizabeth Landis, New York attorney formerly with the U.N. Council for Namibia. Joel Carlson, who has been in exile in the U. S. since 1971, testified as

an expert witness on behalf of the complainants.

Prior to the hearing, the Times had twice sought to have the case dismissed for lack of the Commission's jurisdiction, unsuccessfully arguing before both the Human Rights Commission and the New York Supreme Court that the complainants' case infringed upon the federal government's foreign affairs prerogatives and violated the Times' First Amendment rights. The Human Rights Commission's decision rejected the Times' jurisdictional contentions in holding that employment ads were not subject to the First Amendment protections accorded political and other non-commercial speech and that no foreign policy considerations were involved where a domestic New York corporation is sought to be enjoined from violating the New York Human Rights Law and all necessary relief can be obtained in New York. The Commission recognized that the term "South Africa" is a code word for "whites only" or "no blacks need apply" in the context of employment ads. It found convincing the complainants' evidence that New York residents perceive the term as such, and that this was in part due to news concerning South Africa printed in The New York Times itself. The holding cited South African laws which mandate employment discrimination and segregation directed against blacks.

On October 29, 1974 the New York Supreme Court, Special Term, overturned the Human Rights Commission's decision. The Lawyers' Committee has filed notice to appeal the adverse decision with the Appellate Division of the Supreme Court. We believe that

the Supreme Court's ruling is in error -- and even shoddy -- in its analysis of the three legal points on which it reversed the Human Rights Commission's order.

This case has far-reaching implications for the white-minority regime's attempts to encourage immigration of white Americans to South Africa, where whites constitute less than 17% of the population. This immigration policy allows the South African economy to grow while maintaining blacks in low-paid menial positions. The influx of foreign whites is crucial to obviating the need for promotion of blacks to higher-paying and more responsible jobs.

The case has gained a great deal of attention in the American press, including coverage in both the Times itself and the Washington Post. Both the Harvard International Law Journal and the Virginia Journal of International Law are publishing articles analyzing the case. It has also been the problem (or subject) of the moot court competition at Buffalo Law School, Buffalo, New York.

Diggs, et al. v. CAB. In this case the Project is representing the American Committee on Africa and several other groups which joined the Congressional Black Caucus in intervening in a Civil Aeronautics Board proceeding considering the application of South African Airways for a new route permit between South Africa and the United States. Rod Boggs of the Washington Lawyers' Committee; Vaughan Williams of Wilmer, Cutler and Pickering, Washington, D.C.; and Goler Teal Butcher of White, Fine and Ambrogne, Washington, D.C.,

are acting on behalf of intervenors in conjunction with the Project. The intervenors objected to the granting of the proposed route on the ground that the airline, wholly owned by the South African Government, discriminates against blacks in employment and travel facilities. The objection was based on Sections 402 and 404 of the Federal Aviation Act of 1958, which prohibit foreign air carriers from practicing racial discrimination and require a finding by the CAB that the carrier is acting in the public interest. A hearing examiner denied the intervenors permission to submit testimony on the discriminatory practices of SAA and recommended granting the airline's request. Subsequently, the CAB granted the new route and President Nixon signed the order. The Project appealed to the U.S. Court of Appeals for the District of Columbia where the matter is now pending.

Even if the legal action is not successful in denying SAA the air route permit, it will have accomplished two important things: Two days prior to the hearing before the CAB the Project learned that SAA had hired several black employees for its American offices, and we heard from South Africans that racial discrimination in seating on SAA's flights inside South Africa has eased up.

Namibia Tax Credits. We worked with Congressman Charles C. Diggs, Jr., Chairman of the House Foreign Affairs Subcommittee on Africa, in requesting the Treasury Department to deny tax credits to U.S. Companies investing in Namibia (South West Africa). The

United Nations and the International Court of Justice have declared that South Africa is illegally administering Namibia under applicable international law. The International Court decided that members of the U.N. have an obligation to refrain from any dealings with the Government of South Africa which imply recognition of the legality of, or which lend support to, that government's illegal administration. We pointed out to Treasury Department officials and other U.S. Government officials that granting credit to U.S. investors in Namibia for taxes paid by them to the illegal South African occupying authorities was inconsistent with U.S. policy and international law. Despite our efforts, however, in May, 1973 the Secretary of the Treasury concluded that the existing legislation did not provide the discretion to deny the tax credit.

The Project then cooperated with U.S. Senator Walter Mondale in the matter, and asked him to introduce in the U.S. Senate an amendment to the Internal Revenue Code which would deny credits to U.S. investors in Namibia. We drafted the Bill, and it was introduced by Senator Mondale on June 5, 1974 as an amendment to the Foreign Trade Bill. The Bill (worded in general language) precludes the granting of tax credits to U.S. companies which invest in Namibia and pay taxes to the illegal South African administration. The operative language refers to the 1971 International Court of Justice Advisory Opinion on the status of Namibia and the U.S.'s acceptance of the Court's decision.

The Senate Finance Committee, during its consideration of the Foreign Trade Bill, decided not to include the Namibia tax credits amendment. Therefore, a new vehicle for introducing it on the Senate floor will be found, probably next session of Congress.

Prohibition of Imports of South African Coal. The United Mine Workers and the State of Alabama asked the Project to act as counsel for them in filing a complaint with the U.S. Commissioner of Customs under the Tariff Act of 1930 (19 U.S.C. §1307) to prohibit all imports of South African coal into this country. The statute precludes the importation of goods, wares, articles and merchandize mined, produced or manufactured by forced labor, indentured labor under penal sanction, or convict labor provided that U.S. consumptive demand for the product in question can be satisfied from U.S. domestic sources. South African law compelled indentured labor under penal sanction for all black workers in the coal industry in South Africa, and blacks constitute the majority of the labor force in all South African coal mines. The U.S. can easily satisfy its domestic consumptive demand for coal.

The complaint was filed on August 16, 1974 along with a motion to withhold in Mobile, Alabama, a large shipload of coal which arrived from South Africa on August 22nd. The motion was denied on that date, and hearings were conducted before Customs Service officials on the merits of the case. Thereafter, in November, the

South African Parliament repealed forty-one laws and sections of laws compelling contract labor subject to criminal sanctions for black workers in the mining, manufacturing and other sectors of that country's economy. Many of these laws were cited in the complaint before the Commissioner of Customs. South African lawyers, including Raymond Tucker, have informed us that the repeal of the laws is directly attributable to our filing of the complaint under 19 U.S.C. § 1307, and that the event greatly encouraged those working for economic and social justice for blacks in South Africa. The South African Parliament was sufficiently concerned with the possible ramifications of the action that it also passed a law making criminal the furnishing of any information on any business, whether carried on in or outside of South Africa, to a foreigner. (For better or worse, Douglas Wachholz and Goler Teal Butcher, who was acting in the case with the Lawyers' Committee, achieved some notoriety from an article in the Johannesburg Star, a copy of which is appended as Attachment II. Also attached is a copy of Douglas Wachholz's testimony regarding Section 307 of the Tariff Act before the Foreign Affairs Subcommittee on Africa on December 6, 1971.) Michael Davis assisted the Project in preparing the complaint, and served as an expert witness on South African law at the oral presentation before the Customs Service.

Consultations are being conducted with the UMWA and the State of Alabama in order to determine what action should be taken as a result of the repeal of the South African legislation.

Diggs v. Dent. In July and August, 1974 the Project represented the American Committee on Africa, Center for Social Action of the United Church of Christ, Episcopal Churchmen for South Africa, U.S. National Council of Churches, U.S.A. Committee of the Lutheran World Federation and the Washington Office on Africa before officials of the U.S. Department of State in attempting to prevent the U.S. Commerce Department from sending a special trade mission of experts to Namibia to observe the harvesting of baby seals for their skins. The Commerce Department wanted to send the mission in order to certify the program as humane in accordance with the American Marine Mammal Protection Act because such certification would allow a waiver of the import prohibitions of the Act regarding sealskins from Namibia. The position which the Project took was that the proposed trip would violate explicit U.S. international obligations articulated by the International Court of Justice in its June 21, 1971 Advisory Opinion on Namibia, inter alia, the obligation ". . .to abstain from sending diplomatic or special missions to South Africa including in their jurisdiction the Territory of Namibia". The Project met several times with Donald B. Easum, Assistant Secretary of State for African Affairs, and other officials to discuss the matter. Six U.S. Senators were alerted to the situation and actively tried to stop the trip. The Project consulted with them on the international law questions involved. The Deputy Secretary of

State agreed with our reasoning, and wrote the Secretary of Commerce to inform him that the proposed trip would violate our international legal obligations. The Commerce Department was under intense domestic political pressure from Senator Strom Thurmond because the prospective importer of the sealskins was a large South Carolina concern. Disregarding international law and the advice of the State Department, the Commerce Department sent the mission.

Upon learning that the mission had been dispatched, the Project contacted Richard Frank and Leonard Meeker of the Center for Law and Social Policy, and Goler T. Butcher of the Washington firm White, Fine and Ambrogne about cooperating with the Project in bringing a lawsuit (1) to enjoin the mission from visiting Namibia, and (2) to enjoin the Commerce Department from sending future trade missions to Namibia. Shortly thereafter, on August 28, 1974, a lawsuit was filed on behalf of Congressman Charles C. Diggs, George Houser, South West Africa Peoples Organization (SWAPO) and Ben Gurirab (SWAPO U.N. Representative) in the U.S. District Court for the District of Columbia, by the Center for Law and Social Policy of Washington, D.C., Goler Butcher and the Lawyers' Committee. Shortly thereafter, the Commerce Department announced that the request for an import license for Namibian sealskins had been denied and that the Department did not anticipate sending any further trade missions to Namibia. The plaintiffs in the case have decided to continue to

seek a permanent injunction in the case in order to insure that the Commerce Department cannot send future missions. The case is still pending.

South African Sugar Quota. In May, 1974, U.S. Senator Edward Kennedy requested the Project to assist him in preparing a memorandum describing South Africa's legal framework and the practice thereunder regarding black workers in that country's sugar industry. He asked us to relate the South African law and practice to the U.S. Sugar Act, under which South Africa had been allotted a quota to sell sugar to the U.S. which it was seeking to renew for the five-year period proposed by the Sugar Act Amendments of 1974. Senator Kennedy wished to be able to use this memorandum to support his position that South Africa should not be granted a quota under the proposed act because of the exploitation of black workers in the sugar industry in South Africa.

The Sugar Act Amendments of 1974 were defeated in the U.S. House of Representatives in June, and there has not been a subsequent attempt to revive the Sugar Act as of this time in either the House or the Senate.

Maryland National Bank Matter. In May, 1974 members of church and civil rights organizations in Montgomery County, Maryland, requested the assistance of the Project in attempting to persuade the County government to withdraw its substantial deposits

(over one billion dollars annually) from the Maryland National Bank. Church and civil rights groups were protesting the Bank's participation in a consortium which was lending money to the South African Government. These groups felt that County funds should not be lent to support apartheid. A meeting of the Montgomery County Council was called to discuss the ways in which the County could withdraw funds. The Project gave its advice on the legal options available to the County. Several days after the Council meeting the Bank withdrew its participation from the consortium and stated that it would not lend money to the South African Government in the future. The print media in the Washington area gave the matter good coverage.

Fairfax County Human Rights Ordiance. In July an ad hoc church group in Fairfax County, Virginia, asked the Project to draft an amendment to the new County Human Rights Ordinance to preclude the County for depositing funds in banks which directly or indirectly were making money available to the South Africa Government. We provided these groups with a draft amendment to the Ordinance, and also gave them information about the legal system supporting South Africa's apartheid policies for their use in discussing the matter with County Supervisors and residents of Fairfax County. We attended several of the meetings of the ad hoc group, which grew to include a number of civil rights and church organizations, and discussed legal considerations and strategy with the group. The group subsequently

convinced the new Director of Human Rights Commission of the importance of the proposed amendment, and he now thinks that it will pass after the Supervisors are more fully informed about South Africa. We are continuing to be available for consultation.

Jose M. Azevedo Pinheiro and Rui Mendes Pereira. On April 11, 1974 the Project was informed by Peter Weiss of the Center for Constitutional Rights that two political refugees from the Azores (Portuguese-administered islands in the Atlantic) were in Portsmouth City Jail (in Virginia) and about to be summarily deported by the U.S. Immigration and Naturalization Service. After visiting the men in jail, Douglas Wachholz learned that they had left the Azores by stowing away on an American vessel as a result of their moral opposition to serving in the Portuguese Army. The Portuguese Army was at that time fighting against the black liberation movements in the Portuguese colonies in Africa -- Mozambique, Angola and Portuguese Guinea. They were also politically and ideologically opposed to the repressive and authoritarian Caetano Regime then in power. At the time that he stowed away Mr. Azevedo Pinheiro was a soldier in the Portuguese Army and was about to be sent to fight in the African wars. Mr. Mendes Pereira was about to be inducted into the army. There is no way to avoid military service in Portugal and its colonies, and no young man of draft age may obtain a passport until he has completed his military obligation.

The refugees entered this country by avoiding immigration officials when the ship on which they had stowed away docked in Baltimore. They lived and worked in Hampton, Virginia, for two months before they were apprehended by the FBI, Immigration and Naturalization Service and the local police. They were charged with illegal entry into this country by INS and jailed in lieu of $2,500 bond. They immediately asked for political asylum, which request was dismissed by INS officials as "not possible". The Project arranged for payment of their bond after they had been in jail for eighteen days, and prevented a summary deportation of the men to Portugal, where they would have been subject to persecution and long imprisonment. David Carliner, a very fine Washington immigration lawyer, has been working on the case in cooperation with the Project.

Exactly two weeks after we first spoke to the men in jail the April 25th Portuguese coup d'etat took place. This event made their situation much more complicated. The new government has eliminated fascist repression, and has virtually ended the African colonial wars. The indications are now clear that the new Portuguese government sincerely wishes to grant independence to the three African colonies, at which time Pereira's and Pinheiro's political asylum claims will almost certainly fail. Therefore, we have delayed their cases until we are sure the African wars are over. Also, Mr. Carliner is preparing immigrant claims for both men on non-asylum grounds.

Visa and Immigration Matters. Because of the large number of requests from political refugees from Southern Africa for legal assistance with visa and immigration problems, the Project has begun asking immigration lawyers, primarily in Washington, D.C., to accept cases on our behalf. We have been very fortunate that David Carliner has offered to help us find lawyers who specialize in these fields. Mr. Carliner is a member of the national executive committees of both the American Civil Liberties Union and the International League for the Rights of Man, and has good contacts with lawyers throughout the country. We have already referred five persons to lawyers through his efforts.

Human Rights Considerations in the Foreign Policy Decision Process. The Project believes that part of our effort should be spent in monitoring the foreign policy apparatus of the U.S. and other countries to insure that human rights considerations, especially as they relate to Southern Africa, are given regular consideration. We are alert to the possibility of bringing legal actions, and will consult on a regular basis with U.S. Department of State officials, concerned members of the U.S. Congress, representatives and officials of other governments and members of international and American organizations for ways in which the Project can assist in the achievement of such a goal.

Education and Involvement of Lawyers. The Project has employed a wide range of efforts to involve the American bar and

lawyers in other parts of the world in helping to solve the massive human rights problems of Southern Africa. We disseminate information to lawyers by publicizing matters in which we are involved. We have mailed documents to an extensive mailing list on a regular basis. The Project also has conducted seminars and luncheons for lawyers in order to acquaint them more fully with the situation in Southern Africa and with the legal techniques available in this country to give effect to international anti-racist measures. Speakers have included Congressman Charles C. Diggs, Jr., Joel Carlson, Goler T. Butcher, Judge William H. Booth and Dr. Beyers Naude, the Director of the Christian Institute of Southern Africa.

Douglas Wachholz has spoken before groups on the work of the Project, including the American Society of International Law Study Panel "International Human Rights Law and its Implementation", the Board of Directors of the International League for the Rights of Man, the Board of Directors of the Procedural Aspects of International Law Institute, and the Democratic Foreign Affairs Task Force Study Group on Africa. On September 4, 1974 Mr. Wachholz presented a paper entitled "The Utilization of Domestic Legal Techniques To Give Effect to U.N. Anti-Racist Measures" before the International NGO Conference Against Apartheid and Colonialism in Africa in Geneva. The paper elicited a great deal of favorable comment, and a number of persons spoke of the need for similar legal efforts in Europe. (A

copy of the paper is appended as Attachment III.) The ASIL publication International Legal Materials published the Commission's decision in ACOA, et al. v. New York Times in its July, 1974 edition, to which 5,000 persons from all over the world subscribe.

The Project hopes to cooperate with student international law societies at law schools across this country and elsewhere by providing them with action-oriented programs. We have discussed this idea with students and faculty at a number of law schools and the response has been gratifying. Professor Abram Chayes of the Harvard Law School (and former Legal Adviser to the Department of State) has agreed to assist Ralston Deffenbaugh, a Harvard Law student who was an intern this summer with the Project, in working with the Harvard International Law Society to add Southern African topics to their program for the coming year. Margaret Marshall, a student at Yale Law School and former President of the National Union of South African Students (NUSAS), has already helped prepare a brief on U.S. law for transmittal to lawyers in South Africa for their use in the important case of Pelser v. van Niekerk and The Sunday Times. Professor Richard Bilder of Virginia Law School has expressed an interest in cooperating with the Project in organizing his international human rights seminar for next year to include an activist component, and the Project has communicated with U.C.L.A. Law School about the assignment of two of its "quarter-away program" students to the Lawyers' Committee.

The Project has decided to form a Scholar Advisory Group

composed of leading legal scholars whose field of special interest is the international protection of human rights. Both the staff attorneys and the Subcommittee would be able to turn to this group for advice and ideas. We envision a meeting of this group with the staff attorneys and the Subcommittee at least once a year, perhaps in conjunction with the Annual Meeting of the American Society of International Law.

Conclusion

We believe that we have demonstrated the ability of the Lawyers' Committee's Africa Legal Assistance Project to provide effective legal assistance to victims of racial repression in Southern Africa. We have initiated legal actions in the United States which needed to be brought and which would not have been brought without our work. The Project has helped to disseminate information concerning the difficult issues associated with the struggle for racial justice in Southern Africa. We hope to redouble our efforts in the future, drawing inspiration from the example of those who have courageously stood up against the vicious white-minority regimes of Southern Africa:

> Only when we are granted our independence will the struggle stop. Only when our human dignity is restored to us, as equals of the whites, will there be peace between us. . .
>
> My co-accused and I have suffered. We are not looking forward to our imprisonment. We do not, however, feel that our efforts and sacrifice have been

wasted. We believe that human suffering has its effects even on those who impose it. We hope that what has happened will persuade the whites of South Africa that we and the world may be right and they may be wrong. Only when white South Africans realize this and act on it, will it be possible for us to stop our struggle for freedom and justice in the land of our birth.

Statement from the dock by Toivo Ja Toivo made during the Trial of 37 Namibians in Pretoria, August, 1967, - February, 1968. Toivo was sentenced to twenty years' imprisonment. He is on Robben Island.