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#81

Treason is a 'crime by those who, with hostile intent, engage in injury or damage to the State. ...one can commit high treason without violence.'
- Judge Kees van Dijkhorst

'We knew that nonviolence would be interpreted this way. We will always maintain that the UDF is a nonviolent organisation.'
- Moses Mabokela Chikane

Pretoria's latest assault on the democratic opposition in South Africa came on 18 November when a judge declared 11 prominent leaders of the United Democratic Front guilty of crimes against the State. Four - Popo Simon Molefe, Mosiuoa Patrick Lekota, Moses Mabokela Chikane and Thomas Madikwe Manthata were convicted of treason. Goinumuzi Petrus Malindi, Tsietsi David Mphuthi, Naph-tali Mbuti Nkopane, Tebello Ephraim Ramakgula, Sekwati John Mokoena, Serame Jacob Hlanyane and Hlabeng Sam Matlole were found guilty of terrorism. Both treason and terrorism could draw the death sentence. The judge will pronounce sentences later.

Eight men were found not guilty. Three others of the original 22 defendants in the three-year-long trial were acquitted last year.

Pretoria has executed 115 people so far this year. Last year 164 were hanged. Less than a week ago two condemned men were granted last minute stays of execution; five others went to their death on Pretoria Central prison's seven noose gallows. Johannesburg's Human Rights Commission reports that over 630 people have been hanged in South Africa since 1983.

This bloody record of the South African State redounds against its perpetrators. The world marks and reacts. Pretoria is engaged in a whirlwind effort to cover its cruelties with a spate of relaxations of sentences. The famed Sharpeville Six were relieved of their death sentences by President P. W. Botha. Duma Joshua Khumalo and Francis Don Mokhesi must serve 25 years in prison. Reginald Mojalefa Sefatsa 20 years. Ms Theresa Ramashamola, Malebo Reid Mokoena and Oupa Moses Diniso face 18 years each. All suffer from the tainted South African concept of 'common purpose' - being present in a crowd during the killing of hated township officials-and from a court refusal to grant a new trial despite a witness' statement the police forced him to testify falsely. P.W. Botha - striving for the best of two worlds - at the same time reprieved four white policemen convicted of out and out murder. Imprisonment: one for 25 years, one 20 years, two 15 years.

It is not a change of heart - it is pain to pocketbook and prestige. Despite all the huff and bluff Pretoria musters, economic sanctions, financial credit crises, loss of exports, unabating world disgust, defeat in the Angolan war, the costs of Namibian occupation, the growing fractures among the white community, stubborn resistance from the majority of South Africans present relentless pressures on the apartheid regime. Pretoria is launched into a worldwide public relations campaign to try to enter the family of nations and to put an end to those punishing sanctions. There are signs in the USA and other countries that people who should know better are enticed by Pretoria into giving it the benefit of doubts, of encouraging its self-proclaimed movement toward moderation. But nothing has changed for the better. Nothing will until the full measure of pressures is enacted.



Artist's sketch of Nelson Mandela as he looks today constructed from descriptions from eye witnesses.

FAMILY WIPE-OUT

Apartheid's sour fruit

MICHAEL SIMPSON is one of the few psychiatrists to have interviewed detainees in South African prisons and police stations. Sometimes, he has to insist that the detainees have their handcuffs removed and that security men don't eavesdrop on a confidential medical interview.

Simpson is white, plump and remarkably jolly for a man who is an expert on 'post-traumatic stress'. This condition was first seen in soldiers after the First World War, when it was known as shell shock. It's now accepted that other things besides shells can cause long-lasting shock.

Simpson has been allowed to carry out prison interviews because he often works as a defence psychiatrist. If a detainee can get a hearing and persuade a judge that being detained is leading to psychiatric damage, the strict law says he or she should be released.

In practice, detainees find it hard to get cases heard. Lawyers are often reluctant to represent them. South African psychiatrists — and there are very few black ones — often prefer not to get involved in such cases.

Despite these problems, a number of detainees have sued the Government. Simpson has found considerable evidence of psychological breakdown. Detainees suffer symptoms of depression, anxiety and, sometimes, hallucinations. Often, they thought of committing suicide. Many detainees made allegations of torture. Some forms were 'traditional' (being hit, being given electric shocks); others were bizarre, such as being made to stand on a brick for hours.

Paradoxically, Simpson found those best equipped to cope with detention were those with a well-thought-out political philosophy. Nothing that was done to them surprised them. Being abused fitted their view of the world. It didn't reduce the pain, but they were less confused than other detainees.

Often, the stress caused by detention lasts for many years. In London, I talked to two ex-detainees. One had been held in the Seventies. She still suffers nightmares and moments of panic. Another detainee, a young man, said he suffers anxiety and insomnia two years on.

It's perhaps not surprising that it has taken a long time for anyone to get worked up about the psychiatric consequences of apartheid. It's not the most obvious 'angle'. But this year, the World Federation for Mental Health suspended all its South African members.

DAVID COHEN looks at mental illness in South Africa, where white family violence is on the increase.

As a doctor, Simpson thinks it's his duty to examine and treat those who are in detention. But many whites don't like what he is doing. He returned to South Africa from teaching in America to be professor of community medicine at the University of Natal. While there, he received threats of various kinds. They ranged from the academic stiletto — 'the kind of pressures that can inspire you to resign' — to death threats. 'I was glad when someone else was there when I got one, because you begin to think you might be imagining it,' he told me.

I first met Simpson in London in November, where he had come to give two papers to the Royal College of Psychiatrists. One was on Aids in South Africa, the other on the stresses and traumas of detention.

Simpson had reason to be furious when I first met him, because the Royal College had decided not to allow him to speak on detention, but they only cancelled his speech when he got to London. Simpson was even more amazed by their garbled apology.

They claimed that, though there was no academic boycott of South Africans, the College was worried that black psychiatrists might be offended if he spoke. Never mind that his lecture would be detailing how detention damages blacks.

Simpson also wanted to argue that apartheid even damages the oppressors. The South African Government is very sensitive about its mental health statistics, because the last thing it wants to suggest is that the laager has a psychiatric problem.

Simpson has analysed the evidence, and he told me 'The major picture that one sees is not very different from elsewhere. It is the nature and range of the stresses that lead to very similar symptoms that is different. South Africa stands out very badly compared to many countries in terms of the suicide rate, the divorce rate, the alcoholism and drug-abuse rate.' Even the road accident rate is high. Facilities for blacks are totally inadequate, but even for whites, the care is poor.

For Simpson, cases like Wally Dowling's are the most extreme indication of how the whites are suffering. Dowling owed 400,000 rand and last year killed his wife, his children and then himself. Between February and

August 1987, there were nine such cases of 'family wipe-out', a staggering statistic. There were even cases of mothers who killed their families.

Simpson believes that the wipe-out phenomenon occurs far more often in South Africa than in other societies. He estimates that they are seeing two or three a month. 'It hasn't been formally studied yet,' he stresses. From a cultural point of view, Simpson believes that it's the kind of response that happens in very patriarchal societies. A man feels he owns his wife and children totally. If he is not going to have them, nobody will.

Simpson is back in Britain this week, but he still has not received a convincing explanation or apology from our Royal College of Psychiatrists.

Psychologist David Cohen's film, 'Apartheid — the Stress on the Mind' will be shown on Channel 4 at 23.10 on 27 July.



Prisoner at Mafeking Central.

4 WORLD NEWS

THE GUARDIAN
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Pretoria massacre brings Botha chance to curb right

David Bensusford
in Johannesburg

THE Pretoria massacre of blacks by the "laughing gunman" — Barend Hendrik Strydom, a white racist who shot 13 blacks at random, killing six of them — is both symptomatic of South Africa and an event of some political importance.

It is symptomatic of the attention it draws to an insane strata of white society here — it was the second lunatic drama to hit the country's administrative capital in a matter of days. Last week a white man stole a light aircraft, flew over Pretoria and radioed the authorities to tell his wife to look out of her office window so she could witness his death. He then changed his mind, ran out of fuel and crashed outside the city, miraculously surviving.

At least once a fortnight there are horrific white family murders which clearly arise from similar, at least temporary insanity. A typical one came at the weekend when a young mother on the East Rand dosed her children with sleeping pills, then shot her husband and herself dead. She suspected he was having an affair.

Recently the trial began of a Johannesburg housewife who had telephoned a local brothel to order a whore for her husband.

The three were apparently engaged in group sex when the wife pulled a gun, shot her spouse dead and sent the prostitute screaming and naked into the night.

The high incidence of family murders has been the subject of much debate among sociologists and criminologists, who note that the killers are usually from lower and middle-class Afrikaner backgrounds.

Certainly, the incidence rate among whites is disproportionate to the level of family killings and suicide in black society. A survey by a Cape psychiatrist suggests the white suicide rate runs at about 14 per 100,000, compared to 3 per 100,000 among Coloureds and 0.7 among blacks.

A large factor behind the these killings must be that South Africa is an innately violent society. It has been calculated that on average nearly 10 people are murdered each day on the Witwatersrand — the industrial and demographic heartland of the country. This is roughly equivalent to the murder rate of New York, Los Angeles and Chicago combined.

The low value attached to human life is compounded by apartheid. Some of the most gruesome murders and rapes are carried out by whites on blacks and reflect a perception among the attackers that their victims are sub-human. It is a

perception encouraged by episodes such as the farmer who, with some premeditation, beat a labourer to death for accidentally killing two of his dogs — and received a suspended sentence and a derisory fine.

Against this background, the latest Pretoria murders are less than surprising. But they could have important political consequences, as the timing could hardly have been more fortuitous for the government in its attempts to deal with the political challenge from the extreme rightwing of Afrikanerdom.

The State President, Mr P. W. Botha, has been struggling to find a way of hitting the extremist Conservative Party and fumbling with a strategy aimed at identifying them somehow with "terrorism".

The association of the Conservative Party with the Afrikanerweerstandsbeweging (AWB) — of which Strydom was apparently a member — has long been seen by the ruling National Party as a potential vulnerability in the official opposition.

At least five Conservative MPs are believed to be members of the AWB and the relationship between the organisation and the party is so close that the opposition leader, Dr Andries Treurnicht — who has been at pains recently to foster a more "moderate" image on other issues — has made little

real effort to distance himself from the neo-Nazis.

In his opening speech to the Transvaal congress of the National Party on Monday — when, it appears, Strydom may have been planning to kill him as a white "sell-out" — Mr Botha once again tried the "terrorism" gambit by comparing the Conservatives to the outlawed African National Congress.

On Tuesday morning the parallel seemed feeble. By Tuesday night, with blood on the streets outside Pretoria's State Theatre, it was a more telling comparison.

The National Party moved quickly to exploit it. "There is no longer any place for radicals on either side to continue to place the moderates under pressure in this country," the Minister of Law and Order, Mr Adriaan Vlok, told the Transvaal congress after announcing that Strydom was an AWB member.

The congress promptly passed with applause a motion calling for the AWB to be outlawed. It also passed a motion of condolence to the victims of the massacre and stood in silence — probably the first such gesture of respect for black people in the history of the National Party.

Which in itself pointed to the impact this latest act of lunacy has had on South African society.

TRIAL FOR TREASON. THIS WEEK, THE MARATHON TRIAL TOOK A DRAMATIC TURN ...



The first and only picture of all the Delmas treason trialists, taken this week after a lengthy battle for permission from the judge, the local chief magistrate and the district commissioner of police. Back row, left to right: Moses Chikane, Naphtali Nkopane, Thomas Manthata, Tsietsi Mphuthi, Geoffrey Moselane, Patrick Baleka, Petrus Mokoena, Lazarus More. Middle row: Sam Matlole, Bavumile Vilakazi, "Terror" Lekota, Gcinumuzi Malindi, Serame Hlanyane, Thabiso Ratsomo, Sekwati Mokoena. Front row: Jerry Tlhopane, Simon Vilakazi, Oupa Hlomoka, Popo Molefe, Amos Malindi, Ephraim Ramakgula, Simon Nkoli. Pictures: Gisela Wultsch, Atreps.

The 22 in the dock: A who's who list

BY JO-ANN BEKKER

THE 22 men on trial in Delmas for treason range from a 21-year-old time-keeper to a 61-year-old dry-cleaning agent, a wood and poultry merchant, several community workers, an Anglican priest. Organisations in which they have held office include the United Democratic Front, the Azanian People's Organisation, civic groups and community councils. They are listed in the order in which they appear on the charge sheet.

PATRICK MABUYA BALEKA, 26, is an unmarried Soweto man who worked as an insurance representative until his detention in September 1984.

OUPA JON HLOMOKA, 33, of Sebokeng, is a member of the Azanian People's Organisation, and was employed as an insurance consultant and salesman before his detention in September 1984. He is married with two children, aged six and three, and says his extended family cannot make ends meet without his earnings.

TEBOGO GEOFFREY MOSELANE, 40, is a senior priest in the Anglican Church and has run the Sharpeville parish since 1980. He is married with three sons, ranging in age from 12 to four years. He has been in jail since October 21, 1984.

MOHAPI LAZARUS MORE, 26, of Sebokeng, worked as a literacy teacher for the Learn and Teach organisation until his detention in September 1984. He and his partner have a 10-year-old child; he helps support his extended family.

KORMETI, a goalkeeper for Sharpeville's Pirates Football Club, More was shot on September 4, 1984. The bullet was recently removed.

GCINUMUZI PETRUS MALINDI, 25, a clerk, and his brother, **AMOS**, another of the Delmas trialists (see below), supported their Sebokeng family of nine until their incarceration in September 1984. Since their detention, their ailing father has been forced to find work.

Petrus Malindi is the leader of the Evaton Baptist Church's Youth Committee.

MORAKE PETRUS MOKOENA, 48, owner of an Evaton café called the "West End Restaurant", is married, with six children ranging in age from four to 19. He is the sole support of his 71-year-old mother and his large family.

He has been in detention since December 1984.

TSIETSI DAVID MPHUTHI, 47, an unmarried Sebokeng man, supports his 12-year-old daughter and his elderly mother by selling wood and poultry. He joined the Vaal Civic Association because of rent increases

in September 1984. He was detained in October 1984.

NAPHTALI MBUTI NKOPANE, 41, a stock controller in a Vereeniging furniture company, is the sole breadwinner in his Sebokeng family, supporting his wife, three children aged from 13 to 17, and other relatives. He has been a member of the Vaal Civic Association since its formation in 1983. He has been in jail since November 1984.

TEBELLO EPHRAIM RAMAKGULA, 36, of Sebokeng, was employed as an electrician by Putco - Turffontein - before his detention in November 1984. He is married with four sons and is the sole breadwinner in the extended family.

BAVUMILE HERBERT VILAKAZI, 30, lives in Sebokeng and supports his wife, their son, and his mother. Before he was detained in December 1984, Vilakazi was employed by the Urban Training Project as an area educator in the Vaal Triangle.

SEKWATI JOHN MOKOENA of Boipatong is divorced and supports his parents and siblings. He was secretary of the Boipatong Civic Association when he was detained in November 1984. He complains of headaches and stomach cramps in detention.

MKHAMBI AMOS NKOLINI, 21, the brother of fellow trialist Petrus Malindi, is engaged to the mother of his baby and lives in Sebokeng. He was secretary of the Vaal South Congress Steering Committee and worked at the Letabo Power Station as a time-keeper until he was detained in November 23, 1984.

SIMON TSEKO NKOLI, 27, a single Sebokeng man, assists in supporting his unemployed brother and two half-sisters. He was the co-ordinator of the SA Institute of Race

Relations' education project until his detention on September 23, 1984.

While in jail he has been hospitalised and treated for clinical depression on two occasions.

PELAMOTSE JERRY TLHOPANE, 27, of Sebokeng, supported his mother and two sisters by working as a part-time sales agent for a picture framer's firm. His attempts to pass his matric at Demelin College in Johannesburg were interrupted by his detention in October 1984.

SERAME JACOB HLANYANE, 38, is the treasurer of Zone 3 area committee of the Vaal Civic Association. A Sebokeng resident, he works as an electrician and supports his wife, two children aged eight and six, and three children from a previous marriage, ranging in age from seven to 15.

He was detained in December 1984 and has developed asthma in detention.

THOMAS MADIKWE MANTHATA, 46, of Soweto, is a field worker for the South African Council of Churches in the Justice and Society Division and a former secretary of the Soweto Civic Association. He is married with three children ranging in age from two to nine years.

Manthata suffers from glaucoma, a buildup of pressure inside the eyeballs. Since being detained in February last year, he has developed a skin ailment.

HLABENG SAM MATLOLE, 61, of Sebokeng, worked as an agent for a dry-cleaning firm before his detention in February 1985. He is the sole support of his wife and their five children who range in age from 15 to four years.

He is a committee member of one of the Vaal Civic Association's area committees.

MAXALA SIMON VILAKAZI, 25, was employed by the SA Committee for Higher Education (SACHED) as a clerical clerk until his detention in April 1985. A Sebokeng resident, Vilakazi is engaged to the mother of his young child and supports his sickly mother and their extended family.

POPO SIMON MOLEFE, 34, is the national general secretary of the United Democratic Front.

A Soweto resident who is married with three children, Molefe was detained in April last year. His youngest child was born shortly after his detention.

MOSIUGA GERARD PATRICK ("TERROR") LEKOTA, 37, a former political prisoner, is the UDF's national publicity secretary, and played a prominent role in the formation and development of the organisation. He was detained in April 1985.

His wife and three children live in Durban. The designation "Terror" is derived from Lekota's prowess on the soccer field.

MOSES MABOKELA CHIKANE, of Mamelodi, worked as an official at the Community Resource and Information Centre in Johannesburg, which trains officials of community organisations in administrative and other skills, until his detention last August. He is married with two young children and also supports his widowed mother and their extended family.

THABISO ANDREW RATSONO, 27, an unmarried Sebokeng man, was studying journalism at Rhodes University when he was detained last April. At the time he was president of the university's Black Students Movement. Between October 1983 and January 1984, he was treasurer of the Vaal Civic Association.

Question mark over SA courts

Judicial conflicts in the UDF treason trial focus attention on the respect in which the legal system has been held

From David Beresford in Johannesburg
THERE remains in most walks of South African life a considerable respect for the country's legal system. Despite the steady encroachment of government fiat on the jurisdiction of the courts, there is a belief that some form of justice is to be found in the country's courts.

Even in those anti-apartheid circles most bitterly opposed to the Government and all its institutions, when faced by another act of rank injustice on the part of the authorities, the response is usually that of: 'We'll take them to the courts.'

A contributory factor to the standing of the law in South Africa is the high calibre of the bar. Among its most pre-eminent members is a silk by the name of Arthur Chaskalson.

A former chairman of the Bar Council of South Africa, with a reputation going beyond the country's borders — he belongs, for instance, to an illustrious group of lawyers who have honorary membership of the New York Bar — Mr Chaskalson, the defence lawyer in the marathon treason trial, is respected among his colleagues not only for his brilliance, but for his utmost integrity.

When, therefore, Arthur Chaskalson SC finds himself being threatened with contempt proceedings by a trial judge, there is cause for concern about the South African courts.

The scene of that confrontation was the courthouse in Delmas, a small town on the East Rand distinguished only by the fact that it is hosting the trial, on charges of treason, of 19 individuals among whom number some who can be described as the *de facto* leadership of the country's majority population — the top office-bearers in the United Democratic Front.

As such the case ranks in importance with the great treason trial of 1960, in which Albert Lutuli and Nelson Mandela numbered among those in the dock.

It was on March 10 that this marathon trial attracted headlines once again, with the summary dismissal of one of the two assessors by the presiding judge, Mr Justice van Dijkhorst, on grounds of possible bias in favour of the accused.

The assessor, Professor Willem Adolf Joubert, reacted to his dismissal by circulating a statement of protest to the bench and the defence, as well as the Minister of Justice and the State President. The judge responded by making his own statement in court, attacking Professor Joubert. The professor retaliated with a further statement, attacking the judge — a copy of which was again given to the defence.

This squabble on the bench, unprecedented in South African law, posed a dilemma for Mr Chaskalson — between his sworn duty to uphold the dignity of the law and responsibility to his clients. He resolved it — after much agonising, one can speculate — by mounting an application for the withdrawal of both the judge and his second assessor, on the grounds that Professor Joubert's statements had given the accused reasonable grounds for the belief that the bench was biased against them.

Crucial to the recusal application was the admissibility



The launch of the UDF in April, 1985: now many of its leaders are on trial for treason

of Professor Joubert's statements — the second in particular. After tense courtroom scenes, during which Mr Chaskalson was warned that he was coming close to contempt, the judge refused to admit the second statement, struck out elements of the first and then dismissed the entire application.

Professor Joubert is an outstanding academic: a dean of law at various universities for 22 years he holds a doctorate and is editor of the South African equivalent to Halsbury's Laws of England — Joubert's *The Law of South Africa*. He has also been politically active, taking a leading role in intellectual dissent over apartheid within Afrikanerdom during the last three decades and having been a founder member of the present opposition, the Progressive Federal Party.

While clearly qualified, academically, to act as an assessor, the invitation to the professor to sit in on the Delmas trial, despite his known opposition to the Government, reflects favourably on the judiciary. And the professor indirectly notes the point in his first statement — "I was pleasantly surprised" — although in a way which raises disturbing questions about possible political manipulation of the South African bench previously.

Professor Joubert goes on to describe events leading up to his dismissal, apparently marked by a steady deterioration in his relations with the judge. Mr Justice van Dijkhorst had remarked at the time of his appointment "that his and my political views differed," according to the professor, but apparently regarded this as irrelevant.

But as the trial proceeded these differences were exacerbated and "sharp" disagreements developed between them in their perceptions relating to "the credibility of witnesses."

It came to a head on the morning of March 9 when — after hearing evidence relating to the UDF's so-called

"million signature campaign" criticising apartheid — Professor Joubert "remarked" to the judge that he had signed it. The next morning Mr Justice van Dijkhorst announced his dismissal.

In his statement, Professor Joubert protested that he had signed the petition four years ago, that he had no other links with the UDF, that "it could not conceivably have any impact on my assessment of the issues in the trial," that he had been given no hearing and the judge's action was both improper and unlawful.

Preparing the application for the quashing of the trial, the defence team unearthed

BLACK miners are confronting the giant American Corporation over the migrant labour system by unilaterally bringing their wives into the "single-sex" hostels on the mines. The rebellion follows the pledge by the National Union of mineworkers that it would take control of mine compounds to force the abandonment of the notorious migrant labour system. Meanwhile, Newcastle, in Natal, three people were injured in a car bomb explosion. They were a white woman, four-year-old girl, and a black man.

the fact that the second assessor, Mr W. F. Kruger — a magistrate — was a member of the Broederbond, as was the police investigating officer in the case, Major P. E. J. Kruger.

Mr Kruger had also acted, in the past, as a liquidator of various political organisations which the Government had declared unlawful, including organisations of which some of the accused had been members. These facts were brought as grounds for Mr Kruger's recusal, as well as that of the judge.

Assessors — who, in South Africa, to some extent replace trial by jury — can

out-vote a judge in verdict and have an individual right to file a dissenting judgment.

Mr Justice van Dijkhorst's reply to Professor Joubert, given in court on Monday, went beyond the legal issues to vilify the academic. The professor, he said, had distorted the issue by "omissions, half truths and untruths," he was "opinionated and not open to reason" on political matters, during the trial he had shown himself "totally out of touch on factual matters, and on the assessment of witnesses," he had "failed to keep proper notes of the evidence." He had also "frequently seemed to be dozing off" during hearings.

Defending the second assessor, the judge conceded that Mr Kruger had been a member of the Broederbond for 12 years. He repeated assurances from Mr Kruger that the Broederbond could not "directly or indirectly influence his functions as a judicial officer," that it was an "Afrikaner and political think tank" which "does not prescribe to its members what political beliefs to adhere to," that it did not attempt to influence the administration of justice and that he had been unaware that Major Kruger was a fellow member.

In his second statement — which Mr Justice van Dijkhorst refused to admit to the record — Professor Joubert attacked the judge, describing his comments as "snide," "partisan," "inaccurate" and "a personal attack upon me which exceeds all recognised bounds of propriety."

He said he had not kept full notes, because the bench was supplied with running transcripts of evidence. He had lost the sight of one eye, but it remained sensitive to the harsh light of the courtroom and — as the judge knew — he had to rest it by closing his eyes.

The overt political bias of the judge and second assessor had been such that at one stage he had written a note to him, saying "I would

be unhappy if there were to be any political undertones affecting the case."

The judge had replied the next day by stressing it was a "political" case, making the comment in Afrikaans: "Willem, you know of course that what we are dealing with here is an assault upon our whole structure of government."

Mr Justice van Dijkhorst's predisposition against the accused had been such, said the professor, that at one stage the judge had "informally" bet him a bottle of whisky that the accused would not enter the witness box. The implication had been that the accused were "guilty criminals of whom it could be assumed that they would be unwilling to put their case to the court and to the public from the witness box."

When it became apparent that at least 16 of the 19 accused would take the stand, a bottle of whisky had been delivered to him by the judge's registrar.

The judge's dismissal of the defence application, and his refusal to hear Professor Joubert, mean that these allegations go untested. But grounds for recusal of a judge, or assessor, do not require proof of bias (on grounds of public policy it is arguable that it is in fact undesirable for such proof to be sought).

All that is required is a reasonable belief on the part of the accused that such bias might exist. And if a signature on a four-year-old petition is considered such grounds, how much more so — to the accused at least — are the extraordinary allegations of a man of Professor Joubert's standing; or, for that matter, an assessor's long-standing membership of the Broederbond.

The Delmas trial is expected to last at least another year. Its continuation, following the Joubert incident, means that during that time it will stand as a serious question mark against the reputation of the South African judiciary.

THE CASE OF PAUL TEFO SETLABA

The execution of Paul Tefo Setlaba was due to take place on 10 June 1988. On 9 June lawyers acting on his behalf succeeded in obtaining a two month stay of execution so he could petition State President Botha for clemency. The petition was submitted in early October. On 17 November it was learned that the petition had been rejected and Setlaba would be executed on Thursday 24 November.

Paul Tefo Setlaba was sentenced to death in the Graaff-Reinet Circuit Court in December 1986. No details of the case were reported in the press except that he was convicted of murder for the death of a police informer killed by a group of youths in Bongweni in October 1985. At the time a journalist described her death as 'the culmination of a long series of bitter grievances the residents had against the authorities.'

Colesberg is a small town in the Karoo area of the Cape Province with a population of ten thousand, one thousand of them white. Bongweni is one of the three segregated areas housing its black population. In 1985 it exhibited all the signs typical of apartheid deprivation. However, in the second half of that year Bongweni began to organise to protest at the system which left it with 75 per cent unemployment and deplorable living conditions.

The spur seems to have been the Development Board announcement that rents were to double - from R8.70 per month to between R17.40 and R31.10. Even those in work only earned low wages. Reports quoted R87 per month from hotel work and between R25-50 for domestic staff. Few, very few, ESCOM workers managed to unbalance this average by monthly earnings of between R300-R400.

The new rents, often for housing that was little more than a shack, caused great resentment. The rental even included an electricity charge although electricity wasn't supplied to the township. Other complaints centred on bad roads, health and sports facilities, water and sanitation. Bongweni had no water-borne sewerage but relied on a bucket system that dumped human excrement at the edge of the township.

The first formal protest came on 16 June with a meeting between residents and Development Board officials. The authorities' reaction was swift and brutal - police moved into Bongweni, firing teargas. In the months ahead police and army maintained and intensified their role as oppressors, determined to stamp out every element of resistance to apartheid rule.

The residents gave the Board two weeks to respond to their grievances. No reply was forthcoming but on 2 July the South African Defence Force camped outside the township. In the course of the next two days police and army action resulted in at least eight deaths and almost 80 arrests. Bongweni was under siege, its population forced to defend itself against occupation. In the first police invasion four children reportedly died, suffocated by teargas. The victims included an infant of 10 days and a two month old baby. Residents were reported as saying that police 'hunted children in the hills surrounding the township, firing teargas and birdshot.... The township had been blanketed in teargas'.

The following day a youth of 17 was abducted from his house, placed on

top of a Casspir armoured vehicle and driven round Bongweni with a sjambok tied round his neck. He was repeatedly assaulted. After this provocation angry youths set fire to a policeman's car. Later that evening, according to eye-witnesses, police hiding in the house of a local policeman ambushed a group of passing youths - two were killed immediately, two died later of their wounds. Police alleged the group had thrown petrol bombs at the house but a visiting journalist found no signs of an arson attack. Amongst those killed was Krakra Maciki, a close friend of Paul Setlaba.

The residents' anger was vented again on police property and an officer's possessions were burnt. A night-long sweep of the area resulted in 79 arrests - 60 children and youths, 11 men and 8 women. Even in the police station residents were not safe from teargas - canisters were thrown into communal cells, resulting in 14 people requiring hospital treatment. Others were severely assaulted and interrogated. They included members of the Colesberg Action Committee.

On 5 July the people staged a stay-away and resolved to begin a consumer boycott. The action was selective in so far as four white businesses that had been sympathetic to township residents were exempt. This was both a matter of principle and of necessity - there were no shops at all in Bongweni so arrangements had to be made for essential supplies. The boycott remained firm throughout July.

On 20 July Bongweni shared in the collective grief of the people of Cradock as they buried community activist Matthew Goniwe and the three comrades assassinated with him. On the Monday after the funeral schoolchildren returning to school after their lunch break were fired on by police with birdshot. A local Baptist minister who had tried to warn the children was one of fourteen people requiring hospital treatment. He was kept in for more than a week but was still charged by the police with the others. Although most of the accused were released from custody four of them were set bail of between R300 and R1,000.

After this, repression of the boycott took a different form. By the end of August stores that were exempt from the boycott had come under attack: one was burgled 'in suspicious circumstances' and then closed by police; another was also closed, and a general store had its cafe licence revoked. In addition, the township's water supply was cut off. All these actions, though not sustained, indicated a threat to starve Bongweni into submission. Hotel owners played their part by withdrawing the usual monthly bonus of R25 paid to the workers on top of their basic wages. A reporter covering events in Colesberg was warned not to enter Bongweni by police called in by the chairman of the local Afrikaner businessmen's organisation whom he was trying to interview. He described the atmosphere in Colesberg as 'charged with aggression, fear and suspicion'.

After another month, during which the boycott was maintained, the temperature was raised again by the arrest of community leaders on charges of 'intimidation'. On the same day, 23 September, plain clothes policemen were seen at the house of the woman who was subsequently killed as an informer in October. Bongweni residents had good reason to fear informers. During the raid of 4 July an informer had travelled with the police pointing out people who were subsequently beaten up. Between 23-26 September the woman came under attack twice more - in her car and at her home. On 2 October she was attacked by a crowd of youths and died later in hospital of her wounds.

Paul Setlaba appeared in court with four others. Two were acquitted while two others, Elias Kalem and Thabo Gusha, were sentenced to 17 years' imprisonment because they were under 18 at the time of the offence. Setlaba was taken from Colesberg to Pretoria Central Prison where he is presently on Death Row with over 80 other condemned political prisoners. The crime for which he was condemned was undoubtedly an act which arose out of political persecution. The people of Bongweni had sought to improve their living conditions through a non-violent consumer boycott but found their protest met by brute force - the teargas and birdshot of the police and army. The attack on the informer, though not a part of the organised resistance in the township (the Colesberg Action Committee was apparently attempting to mediate between the woman and the youths) was clearly a direct result of state repression. The events of July 1985 left their mark on Colesberg - they added an additional demand to the community's protests - 'satisfactory inquests into the deaths of all those shot by the police'. Without those eight deaths and the subsequent suppression of the boycott, the anger that led to the informer's death would not have been kindled.

Paul Tefo Setlaba is 24 years old. At the time of his arrest in October 1985 he had reached Standard 10 (matriculation). He is the youngest of four children and lived with his mother and one brother. He now has a young daughter, not yet two, who was born after his arrest. He was released on bail in February 1986 but detained between June and November under the emergency regulations.

Setlaba is a practising Anglican who was a regular church attender and sang in the choir. He was an active soccer player and boxer and as a member of the Colesberg Youth Organisation was concerned to channel the local youth away from drugs and crime towards education. He delayed his own studies for a year by working throughout 1983 to finance his elder brother's matriculation. His public-spiritedness was shown when he risked personal injury to save a mentally disturbed man who had set fire to himself and his house.

The turning-point in Setlaba's life came on 3 July 1985 when his close friend and three others were shot dead by the South African Police. Setlaba watched helplessly from a nearby house while Krakra Maoiki was brutally killed. Afterwards he suffered not only from grief but also guilt that he had been unable to save his friend. His friends and family testify to how disturbed Setlaba was by this event and a clinical psychologist has diagnosed that he was suffering from Post Traumatic Stress Disorder (PTSD) at the time of the alleged offence.

Setlaba was sentenced by Justice Kannemeyer after a trial lasting just three days. He was convicted on the basis of evidence by a 16 year old state witness who was stated by all five accused to have played a prominent role in the killing of the informer. This evidence was apparently supported only by a disputed statement from Setlaba himself in which he admitted being with the group who attacked the woman but not present at the time she was killed. The young state witness's father, a municipal policeman, also gave evidence. Setlaba was found guilty of murder without extenuation and sentenced to death without any evidence in mitigation being led on his behalf. All attempts to take the case to appeal were turned down, leaving only a petition for clemency to the State President.

Setlaba is supported by many people in Bongweni who regard him as an asset to their community. When his first execution date was announced in June some 17 of his friends and relatives travelled to Pretoria to

give him maximum support. At that time he was placed in solitary confinement but allowed twice-daily visits. The Defence counsel at his trial has also associated himself with the petition, recommending it as a means towards reconciliation. Medical evidence was provided by Professor Noel Chabani Manganyi. Nevertheless on 17 November it was learned the petition had failed.

Police violence in Colesberg is the subject of a number of civil cases for damages presently before the Grahamstown Supreme Court. One claim is by the family of James Maruma who was killed along with Krakra Maoiki. Evidence showed that police armed themselves with lethal ammunition - buckshot, usually used for killing an animal the size of a leopard or one with a thick skin. Another is by Tosi Moses Mcoyana, the Baptist Minister shot by police on 22 July. Another case was settled when Christopher Siyonzana was awarded damages for being publicly whipped.

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THE WASHINGTON POST

South African Barely Saved, Lawyer Says

By William Claiborne
Washington Post Foreign Service

JOHANNESBURG, Nov. 24—A stay of execution for a black prisoner sentenced to death for a politically motivated murder almost failed to reach Death Row in Pretoria Central Prison today, arriving just hours before the condemned man was to have been hanged, his lawyer said.

Roshan Dehal, a Durban lawyer, said that he and several other opponents of capital punishment made frantic late-night telephone calls to government officials when they discovered the 11th-hour reprieve had not been communicated to Death Row guards responsible for carrying out the execution of Paul Setlaba, 23, this morning.

Four-and-one-half hours before the hanging was to have been carried out, Setlaba was informed that Justice Minister Kobie Coetzee had granted a reprieve to allow defense lawyers time to apply for a new trial on the basis of allegedly perjured testimony, Dehal said.

Five other convicted murderers awaiting execution with Setlaba went to the gallows.

"If I had not taken the initiative of calling the minister, [Setlaba] would have been hanged. I am 100 percent sure of that," Dehal said in a telephone interview.

However, a spokesman for Coetzee said there was never any danger of the stay order not reaching the prison in time.

In spite of the contradictions surrounding the question of whether or not Setlaba could have been hanged by mistake, Dehal and death penalty abolitionists said they remain convinced that Setlaba was a potential victim of what they contend is the state's cavalier attitude toward putting black convicted murderers to death.

The lawyers' hurried attempts to confirm receipt of the stay came hours after Botha reprieved the "Sharpeville Six"—five men and a woman condemned to death for the 1984 lynch murder of a black township councilman.

Setlaba's temporary reprieve was not connected with that case or with Botha's commutation of death sentences of four white policemen convicted of killing blacks and three black convicted murderers.

Dehal said he will petition to reopen the trial to hear testimony by a key prosecution witness who, the lawyer said, has signed an affidavit declaring that he testified against Setlaba under police pressure to become state's witness and accept immunity.

Setlaba and two other blacks were convicted on Dec. 10, 1986, of the "necklace" murder of a black woman during a consumer boycott in Colesberg, in eastern Cape Province. Necklacing is the ritual murder of suspected collaborators in which a gasoline-filled tire is placed around the victim's neck and ignited.

In an earlier clemency petition to Botha, which was rejected, Setlaba denied committing the murder, saying that he had been at the scene but left to find a tire. When he returned, he said, the woman's body already was burning.

He was convicted, however, on the principle of sharing a "common purpose" with others in a group that commits a murder. The principle, based on South Africa's system of Roman and Dutch law, was used to convict the "Sharpeville Six."

South African blacks resist 'apartheid' vote

By Lynda Schuster
Staff writer of The Christian Science Monitor

Soweto, South Africa

The second car from the end of train No. 9064 is what is known in this boisterous black township as the "struggle" coach.

The car isn't all that different from others at rush hour, packed so tightly that people spill out windows and cling precariously to open doors. Except that it bobs.

It bobs and bounces like a boat in water because a full-blown anti-apartheid - "struggle" - rally is going on inside. A small man in a baggy, double-breasted suit is distributing leaflets that say "DON'T VOTE," and singing a song about how town councilors are a bunch of dogs.

The commuters sing along with him and do a slow, rhythmic dance in place. "Are you going to vote?" yells the small man. "No!" his audience answers. "Are you going to resist?" he asks. "Freedom!" they roar.

So goes the fight over this month's municipal elections. Only in the black community, the battle isn't over whom to choose. It's about whether to vote at all.

For anti-apartheid activists, the decision is easy. They say the vote for councilors in racially segregated towns simply perpetuates apartheid. Participating in the polls, activists contend, con-



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fers legitimacy on a system that is illegitimate. Getting that message out, however, is the tough part.

That's because the government in Pretoria has been playing hardball by detaining thousands of opposition leaders, gagging anti-apartheid groups, and making illegal any call for an election boycott. At the same time, it has thrown millions of dollars for badly needed improvements into decaying townships to try to spruce up its image and win over residents.

Still, government opponents are finding ways to resist. Church organizations have linked up with unions and community associations to print and distribute anti-election pamphlets. Barred from calling public gatherings, activists give lectures on trains and at prayer meetings. Street committees - radical groups that virtually ruled townships during the unrest of 1984-86 - are quietly being revived to talk up "noncollaboration."

Although the anti-apartheid movement has a long history of boycotting elections, this one is especially significant. That's because Pretoria wants to use local government officials to build up a new constitution from below. The idea is to work out a power-sharing plan with the country's 28 million blacks - who have no vote in national matters - without giving up full white power.

So making local government unworkable, opponents contend, means taking the linchpin out of President Pieter Botha's new constitutional machinery. "If the municipal elections don't succeed, Mr. Botha will be denied victory," says a member of the Congress of South African Trade Unions (Cosatu), the country's biggest black labor federation.

Anti-apartheid activists didn't always see things this way. Even after blacks were removed from voter rolls in 1986, prominent groups such as the now-outlawed African National Congress (ANC) continued to advocate participation in government bodies in the hope of getting blacks reinstated.

By the early 1970s, however, it was clear that Pretoria wasn't going to budge. And a kind of all-or-nothing consensus emerged among many opposition organiza-

tions: Since the government insisted on retaining ultimate control for whites, dismembering apartheid from within was impossible. So the best strategy was to work from without - which meant boycotting all elections.

"Our primary power is located on the outside," insists Firoz Cachalia of the Transvaal Indian Congress. "From outside, we're forcing them to grant us more space. Eventually, we'll get enough to space to threaten them."

The ANC makes clear that this strategy still holds. "Ensure that no one in your locality stands as candidates for the apartheid elections," urges one ANC leaflet circulating in townships. "Those who defy the will of the people should meet with the full wrath of the people."

South African police say the group has stepped up its policy of bombings to try to disrupt voting. There were a record 29 explosions last month, all of which police attribute to the ANC. As a result, the government is clamping down even harder, offering rewards for information leading to the arrest of insurgents; detaining and restricting more activists.

But that doesn't bother the likes of Anglican Archbishop Desmond Tutu, who, along with other clergymen, has publicly called for a boycott. Ministers from the South African Council of Churches (SACC) are "educating" local preachers in townships about election issues, getting them to open their churches for boycott meetings, and to display anti-election literature.

An SACC member says the council is also passing pamphlets to township street committees through its youth division and to shop stewards of Cosatu. "We can't take for granted that people won't be swayed by the government's agenda," he explains. "Their allegiance must constantly be won."

The Cosatu connection, while relatively new, has become the boycott's biggest boon. For with its nationwide network of grass-roots organizations, the federation is probably the most effective anti-apartheid group still going. Cosatu "comrades" have been calling meetings in factories, threatening to strike employers who distribute campaign literature, making midnight forays to paint election billboards with big "Viva ANC!" signs.

With so much opposition activity forced underground, it's tough to know if the boycott message is getting across. For many blacks, that probably isn't necessary. Raised in a political culture of nonparticipation and "educated" by the 1984-86 uprising, "we know these councilors are useless," snorts a resident of Mshenguville squatter camp.

Only about 21 percent of eligible blacks went to the ballot box when town councils were established in 1983. Government officials won't say publicly what they would consider to be a successful turnout; privately, they are hoping just to better the 1983 results.

Cosatu officers are pretty confident they can keep people from the polls: They are calling a work stay-away on Oct. 26, election day, and telling everyone to remain indoors. Their big problem is "prior votes," a system that allows voting from Oct. 10 to the 22nd. The idea is that spreading the vote over several days will make it harder for activists to monitor people's movements.

None of that fazes the crowd on train No. 9064, however. There's no question of allegiance, as someone starts a song in Zulu about the ANC. By now the sun is setting; the sky, broad brushstrokes of purple-pink. People waiting on platforms smile as the train goes hurtling past, and they catch a few of the words:

"[Joe] Slovo and [Oliver] Tambo are communists;
"They are our comrades;
"They are our leaders;
"One day they will return and rule."



Part of a government effort to educate blacks about local elections, these chatty squirrels talk politics in South Africa's newspapers, on radio, and on television. Squirrels were chosen because research showed that blacks would respond best to animals. Many blacks say they find the ads offensive.

BOERS CHANGE THEIR TACTICS

CALL THEIR BLUFF!!!!

COMRADE MANDELA'S RELEASE COULD DEPEND ON YOUR VOTE

THE BROAD DEMOCRATIC ALLIANCE HAS LEARNT THAT THE APARTHEID REGIME PLANS TO USE A POOR VOTER TURNOUT IN THE MUNICIPAL ELECTIONS AS AN EXCUSE NOT TO RELEASE COMRADE NELSON MANDELA.

BOTHA'S RECENT INTERNATIONAL COMMITMENT TO FREE OUR LEADER HAS PLACED THE REGIME IN A DIFFICULT POSITION FROM WHICH THEY ARE NOW SEEKING TO ESCAPE.

A POOR VOTER TURNOUT ON OCTOBER 26, IS THE MANNA FROM HEAVEN THEY HAVE BEEN PRAYING FOR. IT WILL PROVIDE THEM WITH THE EXCUSE THEY SO DESPERATELY NEED TO KEEP OUR LEADER IN CHAINS.

CALL THEIR BLUFF AND VOTE!!!!

WE CALL ON THE MASSES TO VOTE ON OCTOBER 26.

WORKERS, YOUTH AND WOMEN, EVERYONE MUST VOTE FOR OUR LEADER'S FREEDOM. ONLY HE CAN LEAD US IN OUR NATIONAL DEMOCRATIC STRUGGLE

A VOTE IN THE MUNICIPAL ELECTIONS WILL BE A VOTE FOR MANDELA'S FREEDOM.

Apartheid votes don't add up

JOHN MATISONN ■ Johannesburg

VOTING in the South African municipal elections, which take place this week, is almost over for blacks. The Government kept the polls open for two weeks, ending yesterday, so that black people could vote before election day, when it believes intimidation will be high and voting numbers low.

By the end of last Wednesday's voting, 213,442 black people had voted. The Government's Bureau for Information describes that as a 14.6 per cent turnout, although there are more than 21 million black South Africans. Others view the poll as between 1 and 2 per cent.

To arrive at its figure, the bureau first deducted all blacks the Government describes as citizens of the four homelands it regards as independent.

That leaves at least 16 million blacks in South Africa. About half the black population is under 18, leaving about eight million of voting age. But only 2,457,982 of them—about 30 per cent—have registered as voters, and about one million of those cannot vote, either because there is no candidate or only one.

Of the 1,464,198 blacks who could vote, 213,442, or 14.6 per cent, rejected the

boycott call made by Archbishop Desmond Tutu, other clerics and community leaders and did so between 10 and 19 October. Government spokesmen are pleased with the voting figures, which are higher in percentage terms than in previous black municipal elections.

To achieve the 213,442 turnout, the Government banned anyone from calling for a boycott. Then it ran a £1 million media advertising campaign in which two animated squirrels chat about why everybody should vote. The slogan is: 'You can make it happen'.

A lot of thought and effort went into planning the campaign. The McCann Advertising Agency's first idea was to have two people debating. But what race would they be? The agency decided that, whatever the race, people would draw unacceptable political conclusions.



Tutu: 'No' to squirrels.

The next idea was to use animated animals. They first considered a tortoise and a hare. But the tortoise was thought to be linked with the Conservative Party, because it usually meets in Pretoria's Skilpad Saal (Tortoise Hall) and because its ideas are slow to change.

McCann tested 40 possibilities. When it used a lion and mouse, blacks thought of themselves as the mouse under threat from the white lion, while whites thought they were the mouse, threatened by the black lion.

The only answer was two identical animals—squirrels. Squirrels are found only in a small part of South Africa, in the Western Cape province.

Independent research found that the adverts received a 65 per cent success rate in being noticed by black viewers, but the number who liked them was 'the lowest ever tested by us in the black market', according to Charles Foster, research manager at Impact Information.

Black people who wanted to boycott the election had no sophisticated advertising techniques available to them. Only the most hardy, or those safely wrapped in clerical robes, were willing to break the law directly. Even so, at least 14 Church workers, who are less well-known than Archbishop Tutu, have been detained.

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