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## Government is trying to outlaw SA mercenaries

"THOUSANDS" OF MERCENARIES from South Africa fighting in foreign countries have become a major problem for the SA government which threatens to outlaw them. But the government is having difficulty framing legislation to achieve this.

Deputy Foreign Minister Aziz Pahad, who said that the number of mercenaries in foreign countries had risen from "hundreds to thousands", said the government "will not allow mercenaries to continue fighting outside SA". It was "very concerned" because their activities might fuel conflict in other African countries. It would give SA the image of being a base for mercenaries, which SA could not afford as it would jeopardise international relations.

He said if legal action was not taken now this "lucrative industry" would continue to grow.

However, legislation to counter it was difficult because companies accused of this activity insisted that they were involved only in military training. The government did not want to interfere with individual rights or end up in the Constitutional Court.

His department was considering seeking international conventions to ban the activity and also requesting the OAU (Organisation of African Unity) to ask member countries to stop recruiting mercenaries. SA mercenaries were active in five African countries -- four of them being the Sudan and Liberia, Angola and Sierra Leone.

Pahad's threat follows similar warnings in the last few weeks, which, however, do not appear to have deterred the Pretoria-based company, Executive Outcomes, from negotiating a contract with the Sierra Leone government to train its troops fighting against a rebel army.

Executive Outcomes, according to military analysts, played a key role in reversing the situation in Angola in favour of the Angolan government in its war with the rebel Unita movement. Executive Outcomes provided trained troops and invaluable intelligence about Unita which the previous SA government actively assisted during the 1970s and 1980s.

A spokesman for Executive Outcomes refused to say how many men were under discussion with the Sierra Leone government, what role they would play in that West African country, or why the Sierra Leone government had asked for them.

The spokesman said, "Where security in a country is a problem, we assist in water purification, construction and medical services. White South Africans are the only ones prepared to make a difference," he said, rejecting accusations that the company was using "soldiers of fortune".

The men sent by the company were veterans of SA's military involvement in Angola and Namibia. They replaced Gurkha trainers who had been running jungle warfare courses and would stay for up to three years.

The civil war in Sierra Leone was started by the Revolutionary United Front (RUF), led by Foday Sankoh in 1991 against the previous government. Military Captain Valentine Strasser seized power in 1992 vowing to bring about an early end to the war. Strasser obtained support from Guinea and Nigeria. In April the rebels rejected Strasser's offer of a ceasefire and talks, repeating a demand that all foreign troops must first leave.

The arrival of the South Africans to replace the Gurkhas, who, the Freetown military government said were leaving because their contract had expired, was announced in early May and the first "private SA military advisors" arrived on May 29.

Shortly afterwards, Strasser sacked chief of staff Brigadier Kelly Conteh, saying the army command needed reorganising for an all-out assault on rebels whose big offensive late last year brought them to the approaches of the capital.

He was replaced by Brigadier Joy Turay who was forced out of the service in unexplained circumstances along with 11 other officers in April 1994.

The rebels hold no major towns but have devastated the economy by attacking foreign-owned diamond and bauxite mines.

The rebels want Strasser to hand power to a national conference and want Nigerian, Guinean and other foreign troops fighting with the government forces to leave before any talks take place.

### Comment

Pahad is in a difficult position. So long as Executive Outcomes maintains that it is merely helping the government with infrastructure and training the troops, no legal exception can be taken. After all, British Army trainers are training the Mozambican army.

The African National Congress itself did not reject foreign military aid during the long years of its liberation

struggle though the extent of that aid, apart from the supply of bases, training facilities, supplies and funding has not been publicised.

But with the ANC now in government SA mercenary activities elsewhere in the continent run the danger of creating the conflicts and embarrassments that Pahad fears.

But there are other dangers. When South Africans are killed in action during these operations feelings are stirred up at home. These are exacerbated when South Africans are taken prisoner and executed as occurred in Angola.

Already the rebels have captured and held 17 Western nationals including six Britons for a period of time. They were later released but in one incident in February rebels killed a Gurkha trainer on an exercise together with a close aide of Strasser.

And, of course, further problems are posed when the mercenaries pick the side not favoured by the SA government, a situation that can be avoided only by consultation with the SA government before the "infrastructural aid and military training" starts.

Even if there is no consultation, will the further problem not arise that there is a perception that such consultation is taking place?

There is a strong suspicion that the bland statements of Executive Outcomes is a cover for active military operations. There is no doubt that the company does, in fact, carry out the functions that it admits to -- it would certainly want to train the soldiers if it was to fight with them. But there were too many reports about the company's mercenaries being actively involved in the fighting in Angola for these suspicions to be dismissed.

It seems that the mercenaries are faced with a murky future in Sierra Leone. The country and the army are riddled with intrigue.

Before Conteh was fired, there were repeated purges and reshuffling of the army command during which several officers were accused of collaborating with the rebels.

One need shed no tears about the mercenaries' fate but should the venture go horribly wrong, the SA government could become enmeshed in a nasty and highly embarrassing situation.

# Hanekom lands in a field of troubles

It has been a bad week for Derek Hanekom with opposition to his land reforms coming from several fronts, writes **Eddie Koch**

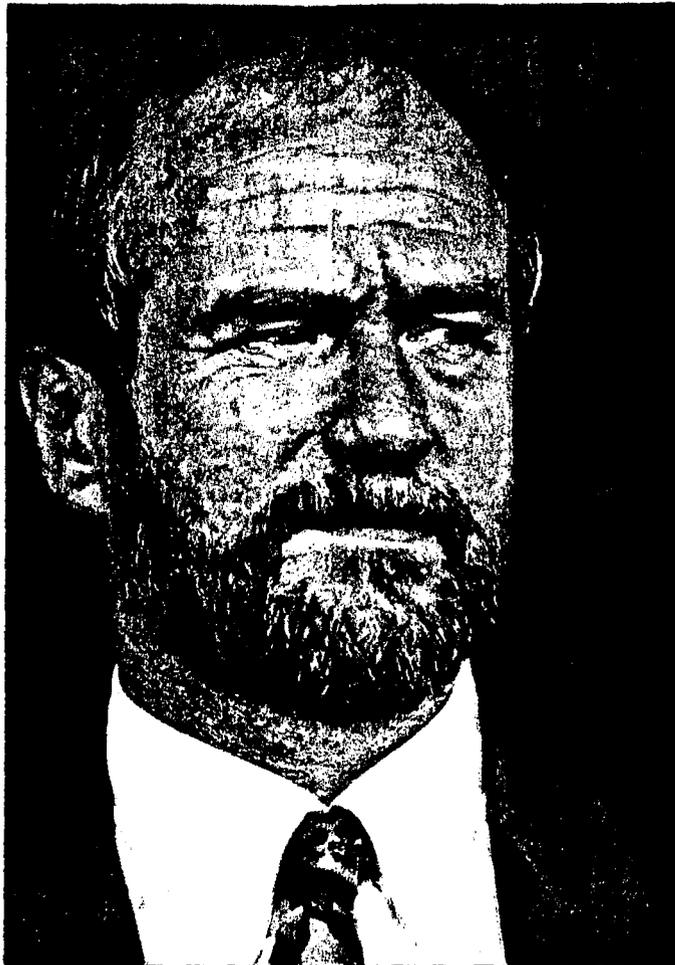
**L**AND reform has come under siege from four fronts as officials battling to reshape apartheid's rural geography were hit this week by the simultaneous prospect of land invasions from labour tenants, civil disobedience from Zulu loyalists, right-wing reaction from white farmers and resistance to reform from army generals.

Nelson Mandela was called in to help as Cabinet fractured over the future of the army's massive battle school at Lohatla. Inkatha leader Mangosuthu Buthelezi issued ominous grumbles about new laws that will limit chiefs' rights to control communal land. And a yawning chasm opened between black labour tenants and white farmers over a bill that will give thousands of black farmers secure land rights.

This combination of problems, all of which came to a head in the same week, have presented Land Affairs Minister Hanekom and his officials with their biggest headache since they launched a comprehensive programme to implement the government's promise to redistribute 30 percent of arable land and give the rural poor rights to live on land without fear of arbitrary eviction.

His ministry has pressed through a gamut of laws and bills to achieve this. Early in the year comprehensive restitution measures were in place for communities displaced under apartheid to reclaim title to their land. A pilot land reform programme aimed at redistributing land to poor constituencies is up and running in all nine provinces.

Last month a draft law that will protect more than 250 000 labour tenants from arbitrary eviction and give them the right to own land on white farms was published. This week the Cabinet accepted a new trilogy of bills that provide security to millions of residents on land in the former homelands.



Derek Hanekom: Wedged between opposing forces PHOTO: HENNER FRANKENFELD

The laws make use of market-driven mechanisms and have been carefully designed to avoid politically explosive expropriations or utopian social engineering schemes, which is why the ministry's work teams have not run into any serious seismic activity — until this week.

The first shudders came when Defence Minister Joe Modise sent a memorandum to Cabinet saying the army did not want to give back any part of the 135 000 hectare battle school at Lohatla in the Northern Cape even though three communities were removed from the area in the

apartheid era and have lodged formal claims for their title to be restored.

Weekend media reports say Hanekom erupted when he heard of the memo. A number of high-level meetings were called this week to stave off a Cabinet rift, including a face-to-face encounter between the two ministers. The upshot is that Modise has been forced to withdraw his memo and Mandela has agreed to intervene in the spat over the battleground.

Cabinet on Wednesday accepted three new land reform bills even though they had earlier been

described by Home Affairs Minister Mangosuthu Buthelezi as another attempt by central government to undermine the powers of traditional chiefs in KwaZulu/Natal.

The main law in the trilogy, the Interim Protection of Informal Land Rights Bill, provides for a temporary freeze on tenure patterns in the former homelands where formal landholding records are in a state of chaos and do not reflect actual residential patterns. It gives land officials a breathing period, until the end of 1996, to come up with a comprehensive programme for solving this administrative nightmare in the old homelands.

Although the Bill does not change any land titles or provide for expropriation, as claimed in press reports last week, Buthelezi railed against the measures at an Inkatha Freedom Party rally in KwaZulu/Natal last week on grounds that it formed part of a concerted strategy — along with the plan for central government to pay traditional leaders' salaries — to undermine the power of chiefs to administer land in tribal areas.

The minister remained mum, by all accounts, when Cabinet approved the bill on Wednesday but there is little doubt that he will use it to send shudders through the politically volatile province when the IFP steps up opposition to Mandela's plan to take over the chiefs' wage Bill.

The most unstable terrain exists, however, in parts of KwaZulu/Natal and the Eastern Transvaal where labour tenants and farmers have been waging a low-intensity class struggle over rights to land. Flashpoints are the Colenso/Weenen area and districts around Piet Retief.

In both regions, white farmers, fearful of claims from people who have lived on the land for decades, have been evicting scores of black families, impounding their cattle and burning some of their homesteads. Workers and farm tenants responded first by threatening an armed invasion of white-owned land and then by waging a massive labour strike this year. At different stages of these ferocious conflicts, cattle were ham-

strung, fences ripped down and there have been cases of farmers being assassinated.

The Land Reform (Labour Tenants) Bill was set up to either give tenants secure title or enable them to buy their own land from farmers. It also, however, lays down procedures for landowners to evict tenants who have broken contract with a farmer, and the measure won some support from organised agriculture because it promised to bring a measure of stability and order to a region that has been fraught with conflict and disorder.

But now the Agricultural Employers Organisation (AEO), which claims to represent 7 000 farmers, and three major agricultural unions have called a summit in Newcastle — heart of the quake around the KwaZulu/Natal labour tenants problem — on July 4 to mobilise resistance to the Bill.

Meanwhile, this week labour tenants issued a statement through the National Land Committee warning that unless the law was passed they

**'If nobody is 100 percent happy then maybe I'm on the right route'**

would "embark on a programme of mass action". The tenants also said they were not prepared to pay for land obtained from white farmers as provided for in the bill.

"The bill comes at a critical time when there is potential for increased conflict between white farmers and labour tenants over land rights," says an NLC statement.

"Labour tenants have been indicating that they have no money to pay for land, they feel they have paid for land through generations of work without pay"

Hanekom acknowledged this week that he has found himself "wedged between opposing forces" but was stoical about the threats. "If nobody is 100 percent happy then maybe I'm on the right route," he told the *Mail & Guardian*.

"You can either be totally mediocre and do nothing or proceed with a certain degree of boldness, imagination and creativity — in which case, some or other party will object. If you please one party all of the time, you're doing something wrong."

But indications are that the ground under his feet is about to move.

**SECURITY CHIEF SAYS IT IS A JOURNALIST'S "PATRIOTIC DUTY" TO PROVIDE INFORMATION TO NATIONAL INTELLIGENCE AGENCY**

It is the "patriotic duty" of everyone - journalists included - to "share" information with the Namibian Security Intelligence Agency (NSIA), the President's Special Advisor on National Security, Peter Tshirumbu, has told media workers.

Mr Tshirumbu yesterday (June 21) gave what newspapers say was his first press conference since Namibian independence in 1990 to respond to "fabrications" about the NSIA published in daily local newspapers The Namibian, Die Republikein and The Windhoek Advertiser.

In May, The Advertiser reported allegations made by human rights activist Phil ya Nangolo that he (Ya Nangolo) had been harassed by security agents. Then last week, The Namibian and Die Republikein reported that NSIA agents were investigating the formation of a new political party.

In a column published in the June 16 edition of The Namibian, the paper's editor Gwen Lister mentioned "excessive interest" shown by the NSIA in the little-known SWAPO For Justice (SWAPO-FJ) party - presumed to be a breakaway faction of the ruling SWAPO party. Lister went on to say that journalists had been approached by NSIA staff for information on the new party, something which she found "reminiscent of the not-too-distant apartheid era", when The Namibian and other media workers were regularly harassed and intimidated by members of the occupying South African security forces. Lister confirms that two reporters on The Namibian were approached by NSIA agents looking for information and documentation about the SWAPO-FJ party.

Stating that he had a "high regard and respect for the role being played by the media in a democracy like ours", Tshirumbu said the media carried a "heavy ethical responsibility" to report the truth - "the singular element" missing "in all instances in which the Namibian media ventured to report on the NSIA and its activities".

"It is known that media operators in Namibia, especially those who were constantly harassed for what was considered negative reportage by security organs during the colonial period, had developed an almost pathological paranoia against security and intelligence services such that they now always see a shadow of a spy behind every issue or occurrence," Tshirumbu told yesterday's press briefing, adding that such "apprehensions are unfounded and have no basis in reality".

The NSIA operated within legislation governing the agency, while independent checks and balances - what Tshirumbu referred to as "oversight institutions" - on the agency's work were also in place. NSIA Director, Andrew Intamba confirms that the legislation Tshirumbu referred to in his press statement was the same as that which governed the South African security services before Namibia's independence. Intamba said new legislation - the Intelligence Bill - was now "at an advanced stage", but in the meantime, Namibia's post-independence constitution and "oversight institutions" (the Ombudsman, for example) would ensure that abuses carried out by South African security agents under the old laws would not be repeated by their Namibian successors.

Tshirumbu dismissed as "parochial postulation" arguments that Namibia - which has enjoyed peace and stability since independence - did not need "machinery to detect, assess and handle" threats to "state security". Threats to the State, sovereignty and national interests were "always present, both from within and outside any national State" Tshirumbu argued, and "it is therefore imperative that any State which cherishes its own existence must maintain the institutional capability to detect, verify and neutralise that threat as and when it occurs". Tshirumbu did not elaborate on what constituted such "threats", nor on instances when the NSIA had proved its worth in this regard. Intamba says written guidelines defining "threats" to state security and national interests did exist, but that these could only be obtained from Tshirumbu.

Concluding his press statement, Tshirumbu said the NSIA relied on the "voluntary co-operation of citizens to realise its objectives". "It is the patriotic duty of citizens of whatever profession, including journalists, to....share with us what they have," The Namibian today reported Tshirumbu as saying.

From The Namibian - Friday June 23

Political Perspective by Gwen Lister

THE chief of state security is now out of the closet, apparently thanks to the media! And we welcome his first press conference and hope there will be more in future in order to shed light on the work of his agency as well as his agents.

IN ESSENCE they are a shadowy lot, and no-one, least of all themselves, can deny this. One can picture the working lifestyles of most professions, but it is difficult to envisage what these people do all day long, especially in the absence of any 'threats' to state security.

So now that Peter Tshirumbu has come out into the open, we would urge him to stay there and fill us in on what their activities are about. In the absence of this, I personally would disbelieve any claims that their function in a democracy is an essential or even necessary one.

We would like to hear from the Special Advisor to the President on National Security whether ideas, for example, can constitute a threat? If he could define for us the word 'threat' (a much-abused term in many undemocratic societies to justify all kinds of repression and suppression of views the authorities do not agree with) this would go a long way in aiding us to establish what the agency is about.

We also note from the budget that the Security Intelligence Agency gets a healthy amount each year, and we would be interested to hear just how it is spent.

Tshirumbu, however, made some strategic mistakes when he held his press conference. He said the media were not reporting the truth as far as the NSIA and its activities were concerned. If he re-reads my column which he took such exception to, he would find that I questioned the activities of the agency in the light of the fact that two of our reporting staff were approached for documentation and information on the proposed new political party. This is the truth.

We have nothing in our Constitution providing for the setting up of such an agency, and we presume its existence is as a result of the Presidential prerogative to set up such ministries and departments as he deems fit. We understand also, that they are currently operating under the old SA apartheid intelligence/security laws in the absence of new laws of our own. A draft Intelligence Bill is apparently at present under scrutiny in the office of the Prime Minister, and we would welcome a chance to inform the public about it before it goes to Parliament. This may also shed further light on their operations.

Tshirumbu, in defining their work, could only refer vaguely to 'threats'. What are they, please? He further makes the huge error of calling on the public in

general and media as well, to voluntarily inform the NSIA of 'threats' (?) or this information will be solicited from them. Perhaps he needs reminding that we have a police force in this country who are there for just such a purpose - maintaining internal security and law and order. We have a defence force to enforce Namibia's territorial integrity and be alert for any possible military threats. With NSIA in addition, there appears to be a substantial amount of duplication.

There are constant complaints that our police force is not large enough to maintain law and order and keep crime to a minimum - yet we can afford the luxury of hundreds (?) of security operatives ostensibly performing functions not even Tshirumbu himself can describe.

This is why it doesn't take much common sense to realise they are keeping a close watch on dissenters of any kind probably by any means they consider necessary. We hope, of course, they are not bugging offices and telephones and the like, and we would be happy to receive assurances in this regard.

But unless Tshirumbu tells us otherwise, we have no choice but to believe what we perceive the real work of his agents to be.

Finally, NO journalist worth his or her salt, would ever work with a security intelligence agency, whether in Namibia or elsewhere. Above all, any self-respecting journalist will protect their sources at all costs. - The Namibian

# Landless bear brunt of apartheid legacy

The critical question to be asked of any land reform programme is whether it will address land hunger in a way that fundamentally redresses past wrongs.

The Government of National Unity's land reform programme is firmly located within the Reconstruction and Development Programme (RDP); is committed to addressing landlessness; and places land reform at the centre of a rural development strategy.

And yet it has come up against a series of critical constraints arising from the negotiated political settlement and the absence of a policy framework.

Before looking at the government's land reform programme and policies it is important to identify the constitutional, developmental and policy framework within which current policies are being formulated and implemented.

It is also crucial to recognise from the outset that the interim constitution — which entrenches property rights and guarantees certain rights to the old civil service — sets real constraints on what is or isn't possible in land reform under a government of national unity.

During the multiparty negotiations, while land struggles continued unabated (albeit in new shapes and forms), the government continued to sell and transfer state land and property; passed a number of new land laws; and entrenched a problematic property rights clause in the interim constitution.

The framework within which the current land reform programme is being formulated and implemented is informed by a number of broader processes:

Firstly, a commitment to end discrimination and redress the effects of apartheid, which finds its strongest expression in the provisions of the constitution.

Secondly, a development framework articulated by the RDP which commits itself to effectively addressing "problems of poverty and gross inequalities in South Africa through placing the South African economy on a path of high and sustainable growth".

And, thirdly, an influence of World Bank thinking on both the RDP and the Department of Land Affairs (DLA) which identifies the

market as the pivotal mechanism for reform on policy formulation.

*Attempts at land reform will not succeed if the ministry does not adopt an holistic approach, writes Josette Cole.*

The World Bank's intervention is important for three reasons. Firstly, it is the only substantive and comprehensive land reform proposal to be put on the table. Secondly, it focuses almost entirely on a land reform programme which aims to address rural land issues. And, thirdly, it has become highly influential in shaping future land reform policies and strategies in South Africa.

The government's land reform programme has three key elements:

- Restitution of land to victims of forced removal.
- Redistribution of land to landless people.
- Tenure reform that can provide security of tenure to all South Africans.

Since the April election the DLA has made considerable progress in formulating policy and processes to implement all three aspects of the land reform programme.

During his first 100 days in office the new minister embarked on an ambitious programme of drafting new legislation, meeting numerous land claiming communities all over the country and holding consultative meetings with non-governmental organisations (NGOs) and lawyers involved in land issues.

Over the past year, in addition to internal restructuring, the DLA has put in place a variety of legal and administrative mechanisms to enable communities to access land and redress historical injustices within the broad framework outlined by the RDP.

## Restitution

The call for restitution for the victims of forced removals was a key demand of landless communities, the ANC and land activist organisations in the early 1990s. This right was eventually enshrined in chapter 21 of the interim constitution and made legally enforceable by the Restitution of Land Rights Act passed in November 1994.

This act was the first piece of post-apartheid land legislation passed by the new government. Although a small beginning in the attempt to redress past injustices of the apartheid era, it is the direct outcome of a long process of debate and nego-

tiations undertaken by land activists, landless communities and political organisations — all of whom played their part in contributing to the process of formulating a more democratic and just land reform programme.

The main objective of the act is the restoration of land rights to communities dispossessed in terms of racially biased legislation. The act goes further than the interim constitution by providing for the establishment of a Land Claims Commission which has the task of investigating community land claims, mediating and settling disputes over land and drawing up reports and recommendations on unsettled claims to be heard in a Land Claims Court.

The Land Claims Court is able to make the following court orders:

- Restoration of state-owned land.
- The acquisition of privately-owned land.
- Compensation for the claimant.
- Alternative relief for the claimant.

However, before a claim is finally settled the Minister of Land Affairs must certify the feasibility of a claim in the case of both state-owned and privately-owned land. This places considerable discretionary power in the minister's hands.

The Land Claims Commission, the key institutional mechanism with the task of driving the restitution process, was established on 15 February 1994 with regional offices in East London, Cape Town, Pietermaritzburg and Pretoria. One of its first challenges will be to deal with the backlog of over 3 000 claims handed over to it by the defunct Commission on Land Allocation, the majority of which are difficult Group Areas land claims.

## Redistribution

The DLA's redistribution programme is aimed at people who do not have a restitution claim to land but who were unable to acquire land due to former discriminatory apartheid legislation. Key beneficiaries of the programme are rural people.

The redistribution of land in rural areas entails the provision of residential and productive land to the poorest section of rural communities and aspirant farmers. As part of a more comprehensive rural settlement pro-

gramme, its goal is eventually to raise incomes from productive land and encourage the use of land for agricultural use and residential purposes.

The DLA's strategy in acquiring land through the market is to remove blockages to ensure that the market becomes accessible to more people.

The Pilot Land Reform Programme represents an initial and ambitious phase of the land redistribution drive. The plan is to start with one pilot project in each of the nine provinces. A total of 45 pilot projects are planned over the next five years.

The cost of the pilot programme for 1995-96 is estimated at R345 million, an average of R26 000 per household, and it will be financially supported by the RDP. An elaborate evaluation and monitoring programme has been set up alongside the implementation of the programme so that problems can be identified as the programme unfolds and lessons can be learned for ongoing land reform.

## Tenure reform

Tenure reform is the cornerstone of any broader land reform programme. In South Africa implementing land tenure reform is complicated by an existing dichotomy between a Western concept of individual freehold tenure and traditional forms of communal land tenure. The objectives of the government's land tenure reform are:

- To provide tenure security to all South Africans.
- To allow and value diversity in land tenure systems.
- To enable landholders to enjoy the legal rights and protection accorded by the constitution.
- To facilitate land reform — ie redress current disparities.
- To follow a participatory policy process in seeking changes — ie empower communities to exercise control and participate in a meaningful way in decisions pertaining to the administration of land.

The policy framework that underlies the current land tenure legislation derives from the 1991 White Paper on Land Reform which stressed the need for a process of upgrading what it terms "inferior" forms of tenure to freehold. The rationale for this is in part an attempt to deal with the racial

legacy of different and lesser forms of ownership by upgrading all existing forms to the individual ownership that applies in "white" South Africa. It is also based on the view that all forms of tenure that are less than freehold are backward and need to be modernised.

The tenure policy of the new government moves in a different direction. It stresses the need for all South Africans to have security of tenure whatever their chosen form of holding land. The status of labour tenants, one of the largest categories of forced removals, is a critical part of the tenure reform debate.

There is no doubt that any adjustments to the forms in which land is held in the new South Africa need to take into account a vast range of *de facto* tenure forms which exist at a local level, as well as *de jure* forms and options. Tenure reform is an essential component of land reform and critical in answering the question of who, ultimately, benefits from current land reform programmes.

#### Obstacles to reform

The Government of National Unity came into power facing huge expectations from grassroots communities, as well as constraints on what was possible. Possibilities for fundamental change and land redistribution were constrained by a number of past processes. The apartheid government, in a last ditch attempt to entrench land rights for the propertied classes, escalated land privatisation policies, selling and transferring huge tracts of land in both urban and rural areas.

These land interventions, which included an arsenal of new land legislation, set firm brakes on what kind of land reform policy was, and is, possible for the new government. Land availability is fundamental to any land reform programme. Selling off state land in the pre-election phase severely hampered land reform possibilities.

The policy framework that emerged to deal with land reform in the 1990s was also extremely limited. Dominated by World Bank thinking which adopts a market-oriented approach to land reform policies, these have focused almost entirely on economic solutions to a historical problem of much wider complexity. In the absence of an alternative policy vision on the part of the ANC or the NGO land sector the World Bank's vision on land reform policy options will remain dominant for the foreseeable future.

The Restitution of Land Rights Act which established mechanisms for historical land claims was a major achievement. Commissioners have already been appointed but there appear to be delays in getting the commission up and running. A stumbling block seems to be the intransigence of the current bureaucracy. Once the commission gets going it remains to be seen whether the administrative and institutional procedures will be able to cope with the number of claims which are predicted.

The cut-off date of 1913 for land claims means that communities who have claims that precede this date need to negotiate alternative ways of accessing land with the DLA. Many such communities feel marginalised by the current land reform strategies.

At the same time, the property clause in the interim constitution continues to entrench privilege and power in the hands of a predominantly white landowning class. While opportunities exist to challenge this clause in the final drafting of the constitution, any success on this score depends on effective lobbying strategies on the part of landless communities and their allies.

The Pilot Land Reform Programme is one of the most ambitious aspects of the DLA's current land reform

programme. In line with the DLA's thinking it is underpinned by a market-oriented and purely economic approach to the land question. There is also some concern that the DLA has moved too quickly on this programme. For example, the pilot programme was going to be based on the findings of a national research programme undertaken by the Land and Agricultural Centre. Yet the pilot programme was launched without incorporating the results of this research into the programme. Also the cost of implementing the pilot programme will eat up most of the DLA's 1995 budget.

The question of local government is directly linked to the successful resolution of the land question in South Africa. The success of reconstruction and development programmes, which include land reform, hinges on establishing democratically elected local government. If local government fails, so too does the transition to democracy.

The RDP and the government of national unity have publicly stated a commitment to ensuring that women are key beneficiaries of the new land reform programme. This represents a major challenge in a context where, in the rural areas and informal settlements of South Africa, access and rights to land have traditionally been the domain of men.

Ensuring that women benefit from the land reform programme is high on the agenda of landless women and their allies in the new South Africa. They are only too aware that land

relations are bound up in laws and practices around domestic relations, in particular those pertaining to marriage and inheritance.

Finally, and at the risk of being highly provocative, I would argue that one of the most serious flaws of the DLA's current land reform programme — on a par with an overemphasis on economic solutions to what are essentially socio-economic and political questions — is the almost exclusive focus on land policies which directly benefit rural communities. As a result solutions for urban land claims and land hunger remain extremely underdeveloped.

This narrow focus undermines the DLA's ability to deal with the historical complexity of land dispossession and social engineering processes which impacted simultaneously on both urban and rural communities. As a result, land rights to urban land is being dealt with separately — at this stage by the department of housing and provincial government.

This means that urban land falls completely outside the national framework of the DLA's land reform programme. The housing department, in its recent White Paper, alerts policy-makers to the need to integrate land issues into other policy. The DLA's approach highlights a disturbing and dangerous tendency on the part of the new government, despite RDP rhetoric to the contrary, to approach development from an extremely limited perspective. This necessarily impedes the prospects of finding solutions which acknowledge the comprehensive nature of deconstructing apartheid and building a sustainable post-apartheid South African society.

Finding new and creative ways of approaching development is, perhaps, the most important challenge facing the Government of National Unity in the near future.

Five years ago, Colin Bundy of the University of the Western Cape argued that the way in which the land question is eventually answered in South Africa will provide a "litmus test" of how much, or how little, social transformation takes place; how much, or how little, wealth is redistributed; and, how much, or how little, ordinary people are involved in the liberation of their own lives.

One year into the transition the

answers to Bundy's thought-provoking questions are not yet clear. But there are already disturbing signs that the land question may get resolved in a way that makes little impact on social transformation in our country. This will certainly be the case if it continues to focus on economic and market-orientated

approaches and fails to address the land question in a much more holistic way. □

*Josette Cole is the former director of the Surplus Peoples' Project.*



# THE SOUTH AFRICAN NATIONAL BUDGET FOR 1995/96 : AN OVERVIEW

Heidi Villa-Vicencio & Mills Soko

Heidi Villa-Vicencio is a graduate student at UCT and Editorial Assistant at The South African Outlook. Mills Soko is a researcher on public issues

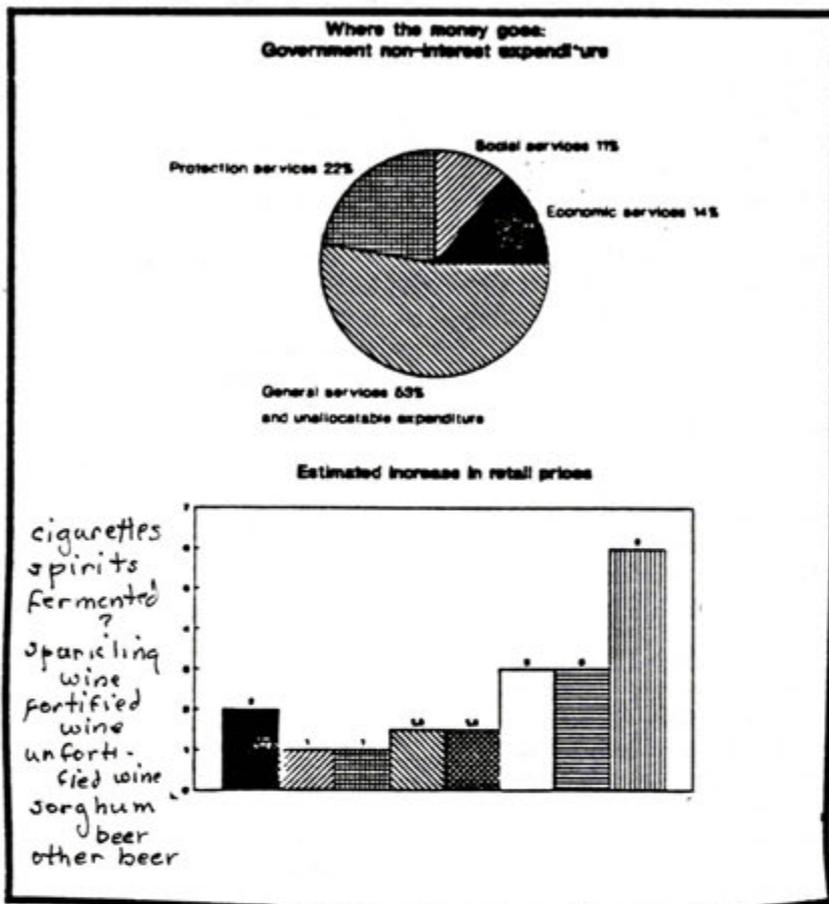
The 1995/96 Budget represented a watershed in the history of South Africa. It was the first national budget that had been democratically prepared and which took the first important step to redress the past inequities. Driven by the imperatives of the Reconstruction and Development Programme (RDP) – the centrepiece of the policy of Government of National Unity (GNU) – the 1995/96 Budget was fundamentally different from the previous budget packages.

Whereas the erstwhile apartheid budgets were prepared in a fragmented and discriminatory fashion (the aim was to perpetuate the deeply unequal pattern of spending among the various population groups) and under conditions of intensified international political and economic isolation, the same cannot be said about the budget of the GNU. This year's budget was presented against the background of the process of political transformation of South Africa, the abolition of the financial rand, and the country's re-acceptance into the international community. As a result of this 'miraculous' political transition, there has been a heightened foreign investor interest in South Africa.

The key objectives of this year's budget were twofold: to create an atmosphere conducive to economic growth; and to increase and to redirect social spending in line with the goals set by the RDP. While the budget spelt out the need for increased social spending, especially in areas such as health care, housing and education, it also took into account the government's undertakings to observe strict financial discipline and control; which, among others, involves reprioritising government spending, restructuring the public service, and reorganising the state assets. The key challenge, therefore, of the GNU is to manage the budget in a manner that promotes real economic growth (disciplined financial and monetary policy) without adversely affecting the objectives of the RDP.

## THE 1995/96 BUDGET

This year's budget saw increases in the funds allocated for social services such as housing, education and health. In the combined national and provincial budgets, social services accounted for 57,4 per cent of projected spending, compared with



52,8 per cent of the 1994/95 Budget. These increases were mainly financed by reductions in allocations to other government services.

Education, by far the biggest single function on the budget, received a total amount of R32,2 billion, 85 per cent of which went to provincial departments for school and college education; the national department of education – with respective increases of 10,7 per cent and 25,4 per cent in the allocations to universities and technikons – received R4,3 billion. The education budget reflects the government's determination to redirect education funds towards redressing inequities at primary and secondary school levels.

The total amount provided for health services was R15,4 billion, including RDP allocations of R680 million for the provision of free health care, R65 million for the clinic building pro-

gramme and R500 million for the primary school nutrition programme. The health budget was increased from last year's 12,5 per cent to 13,4 per cent, with increased spending going towards primary health care, especially in the rural areas.

The most remarkable budgetary increase was in the area of housing, which soared from 1,3 per cent in 1994/95 to 3,4 per cent in 1995/96. The Police Services received R8,9 billion, R290 million of which came from defence cuts, which will provide for the shifting of resources from public order policing to community based policing. Predictably, there was a drop in defence spending. R9,8 billion was allocated to defence, compared with last year's amount of R11,1 billion. An amount of R2,5 billion was set aside for the improvement of service conditions of the public servants, while constitutional development and The local government elections received R59

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million and R49 million respectively. Welfare services received R13,4 billion, a 9,8 per cent increase on the 1994/5 amount. Supplementary expenditure proposals included setting aside R600 million, deducted from an estimated R1,2 billion from the sale of strategic oil reserves, for RDP purposes. Amounts of R700 million and R200 million respectively for Defence and Intelligence Service were also proposed as supplementary expenditure.

To compensate for the loss of buying power of pensions, the budget provided for a 6,5 per cent hike in civil pensions, with effect from 1 April 1995, for pensioners who retired on or before 1 April 1994, while those who retired later would be entitled to a 0,54 per cent for each completed month since retirement. The 1995/96 Budget also considered specific areas of our tax system such as tax administration, tax avoidance, tax amnesty and personal income tax. Most significant of these was the abolition of the previous discriminatory mechanism of determining the rate of income tax; in terms of the new dispensation, a single rate of personal income tax applicable to all individuals was introduced, irrespective of gender or marital status.

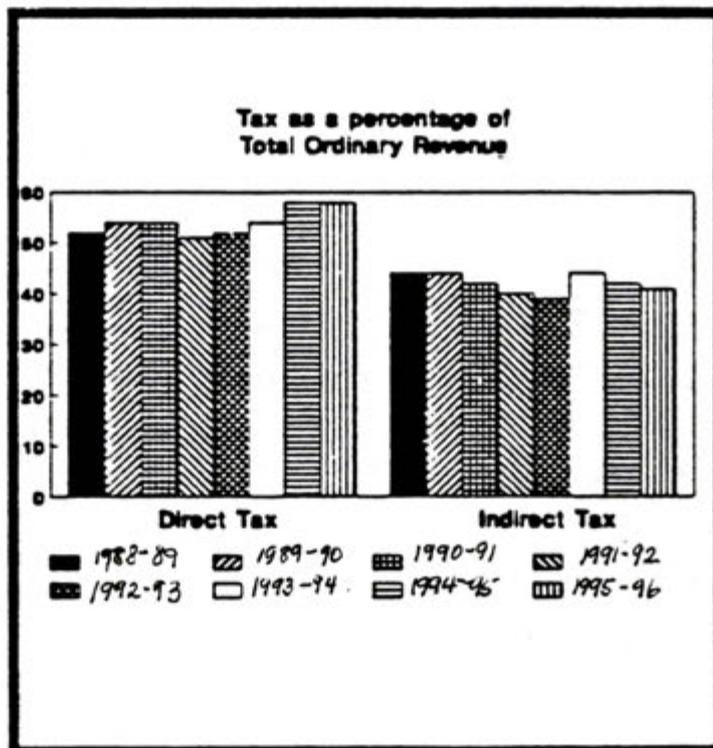
On the issue of tax avoidance, the Finance Minister outlined tough measures that would be taken against fraudulent tax schemes, with a view to enhancing the efficiency of tax collection. The budget also proposed increases on excise duties ("sin taxes") and the fuel levy, which would jointly generate about R665 million in additional government income. In terms of the budget, government debt was - by the end of the 1994/95 year - projected to be in the region of R246 billion, with an interest burden of the debt in 1995/96 projected to be 18,5 per cent of total national spending. In practice, this means that nearly R1 out of every R5 of the taxpayer's money is spent on servicing the debt.

A significant reaction to the budget was by University of Stellenbosch economist, Sampie Terreblanche. He expressed disappointment in one important respect: it did not do enough to relieve the abject poverty of the poorest 40 per cent - more or less 17 million people - of the population who live in absolute poverty and cannot satisfy their basic needs. He pointed out that due to the "creeping poverty" experienced since 1975, the incomes of the poorest 40 per cent in both the african and coloured population groups declined by 50 per cent and 20 per cent respectively. This meant that this poorest group earned less than four per cent of the total income; they lived in absolute poverty and could not satisfy their basic human needs. He further stated that although the income of the top 20 per cent of all households had declined by 6 per cent since 1975, this group, which comprised the majority of the whites and other top layers of the other population groups, still earned more than 70 per cent of total income!

Professor Terreblanche said that if the Government of National Unity wanted to create conditions conducive to sustainable economic growth, the root causes of violence and criminality must be addressed effectively. He also said the ex-

tent to which the RDP and the redirected patterns of social spending would benefit the poorest 40 per cent of the population would be hard to determine. For instance, while conceding that the higher spending on education may reach this group, he is doubtful about whether it will have a meaningful impact on their living standards. On the question of increased spending on housing, he noted that when it is viewed within the context of the next four years it may be of little avail to this poorest group. Further, he expressed misgivings about the amount of money provided for health and welfare, saying the R2,8 billion from last year's provision was not enough to alleviate poverty. He proposed that an increase of VAT from 14 per cent to 16 per cent - about R4 billion in government revenue - could have gone a long way towards boosting the welfare and health spending.

ANC MP Marcel Golding voiced dissatisfaction with the fact that R700 million returned to the Defence Budget - which he assumed would go towards securing the much publicised warships - was granted without any discussion by way of a White Paper on defence policy. The largest trade union federation, COSATU, noted that the budget was essentially still conservative, and did not go far enough to address the needs and aspirations of the working people. The labour union also criticised the government for not consulting widely enough with organs of civil society in drafting the budget. Further, it cautioned that although spending on housing had risen substantially, health and education increases were Nations World Summit on Social Development - which took place in March - COSATU pointed to the stark social and economic inequalities characterising South African society which must be addressed.



# Barney Simon

INDEPENDENT • TUESDAY 4 JULY 1995



Simon: alternative theatre  
Photograph: Mark Douet

Barney Simon was unquestionably the most significant theatre talent to have emerged in South Africa, writes Athol Fugard. There is not a single young director, writer or actor in the country I can think of who does not owe him a profound debt of gratitude. At a time when all of us in South Africa are saying "What now?" for the nation, he was the one man who would

have had the capacity to answer the question. His unique vision of theatre's relationship to society was a combination of ruthless honesty and extraordinary compassion.

The founding of the Market Theatre 19 years ago goes to the root of Barney's significance at a professional level. In defiance of cross-cultural bans, Barney Simon and Mannie Manim created a venue in which young and not so young South Africans of every race and creed could get together and work. The new South Africa was blueprinted on the stages of the Market Theatre before the politicians started talking about it.

At the start of my theatre career I staged *No Good Friday*, my first full-length play, in little attics around Johannesburg. Barney's response to that first play forged a link between the two of us, which surged through the subsequent 37 years. We recognised in each other a kindred spirit in exploring South African

stories that had not been told before and using human resources that had not been used before.

His capacity to challenge fellow artists was quite extraordinary, thanks in part to his encyclopaedic reading and his knowledge of international theatre. In 1961-65 my passport had been withdrawn, and in those years Barney could travel and brought back to me reports of the work of Peter Brook, and the directors in the United States who were the avant-garde of the time.

Barney Simon's connection to my work was the most immediate and direct, imaginable and I would be half the man and half the artist I am today if it had not been for him.

*Barney Simon, theatre director, writer, lyricist, copywriter: born 13 April 1932; assistant editor, New American Review 1969-70; co-founder, Artistic Director, Market Theatre 1976-95; died Johannesburg 30 June 1995.*

## SOUTH AFRICA BRIDGES THE GAP

By TOM ZAMORA COLLINA

**B**efore the Nuclear Non-Proliferation Treaty (NPT) Review and Extension Conference began April 17, the U.S. proposal for an indefinite extension was assumed to have majority support. But how much of a majority? Given the fact that a number of states in the Non-Aligned Movement (NAM) were not in favor of an indefinite extension, the potential for discord was high.

Indonesia, the NAM leader, had been critical of an indefinite extension because it would "imply the recognition in an international treaty of the perpetuation of the existence of nuclear weapon states." The distinction between nuclear "haves" and "have-nots" had been the divisive issue since the treaty was negotiated more than 25 years ago.

The crucial question as the conference got under way was whether the nuclear powers would make enough concessions to the non-nuclear weap-

on states to build a consensus for indefinite extension. If no consensus was forthcoming, the alternative seemed to be a roll call vote, which most believed would be divisive. That rancor might undercut the political and moral authority of the NPT.

After four weeks of public haggling and backroom maneuvering, the conference was able to create a broad base of support for indefinite extension by pursuing a compromise approach put forward by South Africa. It bridged the gap between the sides: The nuclear powers got an indefinite extension; the non-weapon states retained some leverage over the weapon states so that they could continue to press for compliance with the nuclear disarmament language embodied in the treaty.

### In both camps

Having dismantled its own small nuclear-weapons stockpile before signing the NPT in 1991, South Africa's newly democratic government had emerged as a leader of the non-aligned states, while maintaining firm

ties with the West. Although South Africa has a foot in both camps, most observers believed, on the basis of past statements about the legality of extension options, that South Africa would support some form of long-term but limited extension. But, according to a member of the delegation, that was never South Africa's official position.

In fact, South Africa had an internal review of the extension issue before the conference began. As a member, South Africa might have gone along with the NAM position, says Abdul Minty, an adviser to South African Foreign Minister Alfred Nzo. But—as William Epstein notes on page 27—there was no official NAM position.

In addition, Deputy President Thabo Mbeki and his advisers were uncomfortable with the implications of a limited extension. What would happen if the treaty failed to survive the next extension conference? This led the South African government to conclude, in the words of Foreign Minister Nzo, that the NPT "should not be placed in jeopardy" by anything other





than a permanent extension.

South Africa's support for indefinite extension grew out of its own security situation. According to Nzo, "South Africa took the decision to destroy its nuclear weapons and to become a State Party to the NPT because we saw our security being guaranteed by its provisions. It is for this reason also that South Africa has become an active sponsor of an African nuclear-weapon-free zone treaty, which will be indefinite."

The United States may have pressured South Africa, too. It was common knowledge for months before the conference convened that the United States was employing a quiet carrots-or-sticks diplomacy with many nations to shore up support for an indefinite extension. According to a report in the April 17, 1995, *Washington Post*, Princeton Lyman, the U.S. ambassador to South Africa, had warned Nzo on March 10 that an unwelcome position on the NPT would affect Washington's view of Pretoria's "non-proliferation credentials."

The United States had recently supported South Africa's bid to join the Nuclear Suppliers Group, a collection of industrialized nations that supply nuclear technology. South Africa became the only NAM state in the group. According to the *Post*, Lyman said that South Africa's failure to support an indefinite extension "would constrain the ability of the nuclear supplier states to engage in peaceful nuclear cooperation."

As a member of the South African delegation put it, "What do you do if the position you reach on the basis of your national concerns is also the position the United States wants you to take? How do you avoid the impression that you caved in?" But South Africa did not follow the U.S. line. While supporting indefinite extension "in principle," there were strings attached.

## The Gore letter

Pretoria's views were laid out the week before the conference in a letter that Mbeki sent to Vice President Al Gore. The South African position, which was also communicated to a number of southern African nations, stressed that many countries believed that it was necessary to main-

tain the leverage of periodic extension and review of the NPT, and that these concerns had to be recognized and "earnestly addressed."

South Africa went on to propose a strengthened review process and a set of "Principles for Nuclear Non-Proliferation and Disarmament," which would be "the yardstick" by which fulfillment of treaty commitments could be measured. The position also cautioned that any decision taken by a simple majority would weaken the NPT by undermining the commitment to the treaty of those left outside the majority view.

Vice President Gore, under whose portfolio the conference fell, responded positively to the general approach, without committing the United States to specifics. As a result, the United States was prepared to run with the proposal when it was announced publicly on April 19. By endorsing the South African approach, the United States committed itself to pursuing a compromise strategy, while leaving the option of a majority vote in its back pocket.

Once public, Pretoria's proposal was widely praised not only for its message but for its messenger. "This proposal from any other country would not have this impact," said one delegate. Although a number of non-aligned states, particularly Indonesia, were unhappy with South Africa's support for indefinite extension, the proposal quickly became the focus of high-level efforts to achieve a positive outcome.

## Fleshing it out

Midway into the meeting, Conference President Jayantha Dhanapala organized a group of about 20 delegations from across the political spectrum to flesh out the South African proposal. He also consulted, one by one, with more than a hundred delegations. By the end of the third week, the document on strengthening the review process had been almost completed, calling for more substantive meetings between the review conferences, which would continue to be held every five years.

The disarmament principles, however, were much more difficult to hammer into shape. South Africa prepared a draft that Dhanapala used as

the basis for the 20-nation discussions. The South African principles were presented as an attempt to reach a consensus, not to put forward a hard-and-fast South African position. The proposals were moderate in tone, and the expectation was that they would be modified.

Modified they were. The nuclear powers held the strongest cards, and the original language was in many cases watered down to suit them. For example, the South African proposal on a comprehensive test ban treaty (CTB) was clear. Negotiations were to be completed this year, and the treaty signed in 1996. That was changed so that negotiations could extend through 1996.

Similarly, the Mexican delegation proposed that "pending the entry into force of a CTB the nuclear weapon states should suspend all nuclear tests through unilateral and agreed moratoriums." That was diluted to read that "the nuclear weapon states should exercise the utmost restraint" regarding testing. When China conducted a nuclear test shortly after the conference ended, a foreign ministry spokesman said that "China has always exercised great restraint."

Why was the process so one-sided? For starters, the Western nations were well-organized and the NAM states were not. A NAM conference held in Indonesia during the second week of the NPT conference failed to agree on how the NPT should be extended. That failure to produce a united front all but guaranteed an indefinite extension.

Nevertheless, the creation of the principles and the strengthened review process were seen by the nuclear powers as a significant concession. Indeed, enough non-nuclear nations agreed with that assessment to allow the extension decision to be accepted without a vote.

The principles, however, will prove hollow if they are not followed over the years by the nuclear weapon states. In the words of South African Foreign Minister Nzo, "I believe that the South African experience—namely, that security is provided by nuclear disarmament rather than by nuclear proliferation—is a telling one; not only for the 'threshold' states, but also for the 'acknowledged' weapon states." ■