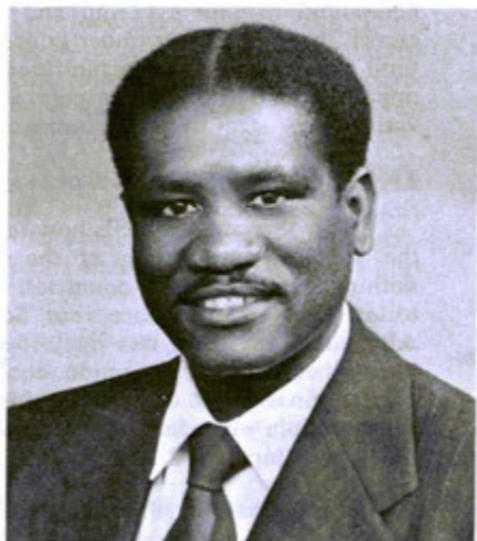


“South Africa has robbed us of our country”



“We are Namibians and not South Africans. We do not now, and will not in the future recognize your right to govern us; to make laws for us in which we have no say; to treat our country as if it were your property and as if you were our masters.”

From Toivo Hermann ja Toivo's statement delivered under oath in the Pretoria Court on February 1, 1968.

TOIVO HERMANN JA TOIVO

Toivo Hermann ja Toivo, regional secretary for the North for the South West African People's Organization (SWAPO), first came to public attention in 1957. A South West African student in the United States created a sensation when he testified before the United Nations Committee on Decolonization by presenting a tape of Toivo ja Toivo's which had been smuggled out in a copy of *Gulliver's Travels*.

Toivo's education began in an Ovamboland mission school. He served with the Native Military Corps of the South African Army during World War II, attaining the rank of corporal, and then returned to school. He found work in the Witwatersrand gold mines and later as a clerk in a manganese mine, then found a job in Cape Town, where he organized a group of Ovambo workers. In Cape Town, also, he met other South West African nationalists.

When the Special Branch of the South African police gave Toivo 72 hours to leave, as the result of the U.N. testimony, he went home to South West Africa. He was jailed for entering the Tsumeb mine compound without a permit and taken to Ovamboland under police escort, there to remain under house arrest and other forms of detention until a new chief allowed him greater liberty. He became an articulate opponent of South African control and policy, and nationalist organization grew steadily in Ovamboland.

Legal Action Fails

Toivo's statement tells how the people's impatience deepened over the years as petitioning at the U.N. and other protests achieved nothing. Other African countries, including the other mandated territories, won independence, but South West's integration into South Africa and apartheid was intensified. In 1963, SWAPO meetings were banned and the organization could not function legally. When the International Court of Justice refused to act on the petition of Liberia and Ethiopia on behalf of the South West Africans, all hope of legal recourse disappeared and new means of struggle were devised.

Toivo was one of 37 South West African defendants on trial in Pretoria from August, 1967 to February, 1968. Among them were other leaders of the South West African People's Organization: Acting President Nathaniel Maxuiriri (most of the officers are in exile; hence the acting officers in the country); Acting Secretary-General John Otto, and Jason Mutumbulua. All were charged, under the Terrorism Act, with attempting to overthrow the existing government of South Africa and to replace it with a government constituted by SWAPO members. The South African government has said that at least 82 other individuals are involved, and new mass trials may be held.

BACKGROUND ON SOUTH WEST AFRICA

White occupation of South West Africa dates back only to 1889 when Germany, a late comer on the colonial scene, established a garrison. Both Nama and Herrero tribes resisted the occupation at the cost of perhaps two-thirds of their number. (It is estimated that Herreros were reduced from 80,000 to 15,000 and that more than half the Nama and Berg-Damara died.) The survivors were ruined economically, their lands occupied; the extensive mining resources of the country opened up to foreign exploitation.

The Legal Situation

After World War I, German colonies were distributed among the Allied Powers as mandates under the League of Nations. On December 17, 1920, South West Africa became a Class C mandate to be administered by South Africa "as an integral portion" of its territory, but subject to the mandate obligation "to promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory."

When the United Nations was formed after World War II, the General Assembly asked mandatory powers to transfer their mandates to the supervision of the U.N. Trusteeship Council. South Africa submitted one report to the U.N. on its administration of South West Africa, but announced in 1949 that it would send no others.

In 1950, 1955, and 1956, the International Court of Justice held, in three advisory opinions, that South West Africa was still a territory under mandate; that South Africa was accountable for its administration to the U.N.; and that South West's status could be changed only with U.N. consent.

In December, 1960, Ethiopia and Liberia (former members of the League) asked the Court to hold in a legally binding judgment that South West Africa was a territory under mandate for which South Africa was accountable to the U.N. and that the mandate had been violated by the introduction of apartheid into the territory. The Court first ruled in 1962 that it had jurisdiction to hear arguments on the merits of the Ethiopian-Liberian contentions; but in July, 1966, it ruled that Ethiopia and Liberia had no legal interest in South Africa's conduct of its mandate and that therefore the Court could not rule on the merits of the case. Both votes were 8-7. It was the last vote that destroyed the dwindling hopes of the South West African people for a legal road to independence.

On October 27, 1966, the U.N. General Assembly adopted Resolution 2145. It declared that South West Africa remained a territory under international responsibility but that South Africa, by its conduct, had forfeited its right to administer the territory and that the mandate was therefore terminated. The U.N. took direct responsibility for administration of the territory until independence.

A special session of the General Assembly convened in April, 1967, established an 11-member Council for South West Africa with administrative and executive functions assigned to a U.N. Commissioner for South West Africa.

South Africa refused to recognize U.N. authority or to admit Council members to South West Africa. Instead, she increased her control of South West Africa and prosecution of the opposition.

South West Africa under South African Rule

In 1960, the South West African population included 452,540 non-white and 73,464 white. The land is divided into the southern Police Zone and the northern Native Reserves where more than half the population lives on less than one third of the habitable land. This segregation is being furthered by a plan to create ten homelands for Africans separated on a tribal and linguistic basis, the first of which is Ovamboland. The transfer of peoples has already begun on the South African pattern. All the major economic regions and cities, and the entire coast line, lie in white areas. There is no possibility of economic viability for the homelands.

African labor is needed for the white economy, however. At present, while many Africans still live in the Police Zone, about half of the needed labor is drafted from the Reserves. Workers may not bring their families and must return at the end of the contract period of one to two-and-one-half years. Most Africans are confined to unskilled jobs in the mines, in factories, and on farms. Existing trade unions are all-white and there is no provision for registration of African unions or for conciliation of disputes with managements.

Only 46 per cent of African children are in school at all compared with 100 per cent of white children; and 90 per cent of the Africans are in the first four grades. Medical and other services are likewise oriented toward the white population.

The Legislative Assembly of 18 is all-white, elected on an all-white roll. An 11-man appointive Colored Council has advisory functions only. Africans have no representation and their political parties are not recognized. In Native Areas, chiefs and headmen are government-appointed and paid officials; in white areas, segregated townships are administered by white magistrates.

Africans now must have passes to travel outside their home areas, to buy a railway ticket, to travel within the Police Zone, to remain in a Native Reserve other than their own for more than 48 hours or in an urban area for more than 72 hours. South African "security" legislation has been extended to South West Africa, and Africans are being arrested under the all-embracing "Suppression of Communism" Act and the 180-day detention (without charges or trial) act. The loosely worded Terrorism Act was made specifically retroactive when enacted in 1967 so as to cover previous activities of nationalists in South West Africa. It places the burden of proof on the accused and includes actions so broad as "embarrassing the administration of the affairs of the State." It was under this legislation that Toivo was tried.

**Statement by Accused No. 24: Toivo Hermann Ja Toivo
During the Trial of South West Africans in Pretoria
February 1, 1968**

My Lord:

We find ourselves here in a foreign country, convicted under laws made by people whom we have always considered as foreigners. We find ourselves tried by a Judge who is not our countryman and who has not shared our background.

When this case started, Counsel tried to show that this Court had no jurisdiction to try us. What they had to say was of a technical and legal nature. The reasons may mean little to some of us, but it is the deep feeling of all of us that we should not be tried here in Pretoria.

You, my Lord, decided that you had the right to try us, because your Parliament gave you that right. That ruling has not and could not have changed our feelings. We are Namibians and not South Africans. We do not now, and will not in the future, recognize your right to govern us; to make laws for us in which we had no say; to treat our country as if it were your property and as if you were our masters.

We have always regarded South Africa as an intruder in our country. This is how we have always felt and this is how we feel now, and it is on this basis that we have faced this trial.

I speak of "we" because I am trying to speak not only for myself, but for others as well, and especially for those of my fellow accused who have not had the benefit of any education. I think also that when I say "we," the overwhelming majority of non-white people in South West Africa would like to be included.

We are far away from our homes; not a single member of our families has come to visit us, never mind be present at our trial. The Pretoria Gaol, the Police Headquarters at Gompol where we were interrogated and where statements were extracted from us, and this court are all we have seen in Pretoria. We have been cut off from our people and the world. We all wondered whether the headmen would have repeated some of their lies if our people had been present in court to hear them.

The South African Government has again shown its strength by detaining us for as long as it pleased; keeping some of us in solitary confinement for 300 to 400 days and bringing us to the capital to try us. It has shown its strength by passing an act especially for us and having it made retrospective. It has even chosen an ugly name to call us by. One's own are called patriots, or at least rebels; your opponents are called terrorists.

A court can only do justice in political cases if it understands the position of those that it has in front of it. The state has not only wanted to convict us, but also to justify the policy of the South African Government. We will not even try to present the other side of the picture, because we know that a court that has not suffered in the same way that we have cannot understand us. This is perhaps why it is said that one should be tried by one's equals. We have felt from the very time of our arrest that we were not being tried by our equals but by our masters, and that those who have brought us to trial very often do not even do us the courtesy of calling us by our surnames. Had we been tried by our equals, it would not have been necessary to have any discussion about our grievances. They would have been known to those set to judge us.

It suits the government of South Africa to say that it is ruling South West Africa with the consent of its people. This is not true. Our organization, the South West African People's Organization, is the largest political organization in South West Africa. We considered ourselves a political party. We know that whites do not think of blacks as politicians — only as agitators. Many of our people, through no fault of their own, have had no education at all. This does not mean that they do not know what they want.

A man does not have to be formally educated to know that he wants to live with his family where he wants to live, and not where an official chooses to tell him to live; to move about freely and not require a pass; to earn a decent wage; to be free to work for the person of his choice for as long as he wants; and finally, to be ruled by the people that he wants to be ruled by, and not by those who rule him because they have more guns than he has.

Our grievances are called "so-called" grievances. We do not believe South Africa is in South West Africa in order to provide facilities and work for non-whites. It is there for its own selfish reasons. For the first forty years it did practically nothing to fulfill its "sacred trust." It only concerned itself with the welfare of the whites.

Since 1962 because of the pressure from inside by the non-whites and especially my organization, and because of the limelight placed on our country by the world, South Africa has been trying to do a bit more. It rushed the Bantustan Report so that it would at least have something to say at the World Court.

Only one who is not white and has suffered the way we have can say whether our grievances are real or "so-called."

Those of us who have some education, together with our uneducated brethren, have always struggled to get freedom. The idea of our freedom is not liked by South Africa. It has tried in this court to prove through the mouths of a couple of its paid Chiefs and a paid official that S.W.A.P.O. does not represent the people of South West Africa. If the government of South Africa were sure that S.W.A.P.O.

did not represent the innermost feelings of the people of South West Africa, it would not have taken the trouble to make it impossible for S.W.A.P.O. to advocate its peaceful policy.

South African officials want to believe that S.W.A.P.O. is an irresponsible organization that resorts to the level of telling people not to get vaccinated. As much as white South Africans may want to believe this, this is not S.W.A.P.O. We sometimes feel that it is what the government would like S.W.A.P.O. to be. It may be true that some member or even members of S.W.A.P.O. somewhere refused to do this. The reason for such refusal is that some people in our part of the world have lost confidence in the governors of our country and they are not prepared to accept even the good that they are trying to do.

Your government, my Lord, undertook a very special responsibility when it was awarded the mandate over us after the First World War. It assumed a sacred trust to guide us towards independence and to prepare us to take our place among the nations of the world.

We believe that South Africa has abused that trust because of its belief in racial supremacy (that white people have been chosen by God to rule the world) and apartheid. We believe that for fifty years South Africa has failed to promote the development of our people. Where are our trained men? The wealth of our country has been used to train your people for leadership and the sacred duty of preparing the indigenous people to take their place among the nations of the world has been ignored.

I know of no case in the last twenty years of a parent who did not want his child to go to school if the facilities were available, but even if, as it was said, a small percentage of parents wanted their children to look after cattle, I am sure that South Africa was strong enough to impose its will on this, as it has done in so many other respects. To us it has always seemed that our rulers wanted to keep us backward for their benefit.

1963 for us was to be the year of our freedom. From 1960 it looked as if South Africa could not oppose the world for ever. The world is important to us. In the same way as all laughed in court when they heard that an old man tried to bring down a helicopter with a bow and arrow, we laughed when South Africa said that it would oppose the world. We knew that the world was divided, but as time went on it at least agreed that South Africa had no right to rule us.

I do not claim that it is easy for men of different races to live at peace with one another. I myself had no experience of this in my youth, and at first it surprised me that men of different races could live together in peace. But now I know it to be true and to be something for which we must strive.

The South African Government creates hostility by separating people and emphasizing their differences. We believe that by living together, people will learn to lose their fear of each other. We also believe that this fear which some of the whites have of Africans is based on their desire to be superior and privileged and that when whites see themselves as part of South West Africa, sharing with us all its hopes and troubles, then that fear will disappear. Separation is said to be a natural process. But why, then, is it imposed by force, and why then is it that whites have the superiority?

Headmen are used to oppress us. This is not the first time that foreigners have tried to rule indirectly — we know that only those who are prepared to do what their masters tell them become headmen. Most of those who had some feeling for their people and who wanted independence have been intimidated into accepting the policy from above. Their guns and sticks are used to make people say they support them.

I have come to know that our people cannot expect progress as a gift from anyone, be it the United Nations or South Africa. Progress is something we shall have to struggle and work for. And I believe that the only way in which we shall be able and fit to secure that progress is to learn from our own experience and mistakes.

Your Lordship emphasized in your judgment the fact that our arms come from communist countries, and also that words commonly used by communists were to be found in our documents. But my Lord, in the documents produced by the state there is another type of language. It appears even more often than the former. Many documents finish up with an appeal to the Almighty to guide us in our struggle for freedom. It is the wish of the South African Government that we should be discredited in the western world. That is why it calls our struggle a communist plot; but this will not be believed by the world. The world knows that we are not interested in ideologies.

We feel that the world as a whole has a special responsibility towards us. This is because the land of our fathers was handed over to South Africa by a world body. It is a divided world, but it is a matter of hope for us that it at least agrees about one thing — that we are entitled to freedom and justice.

Other mandated territories have received their freedom. The judgment of the World Court was a bitter disappointment to us. We felt betrayed and we believed that South Africa would never fulfill its trust. Some felt that we would secure our freedom only by fighting for it. We knew that the power of South Africa is overwhelming, but we also knew that our case is a just one and our situation intolerable — why should we not also receive our freedom?

We are sure that the world's efforts to help us in our plight will continue, whatever South Africans may call us.

We do not expect that independence will end our troubles, but we do believe that our people are entitled — as are all peoples — to rule themselves. It is not really a question of whether South Africa treats us well or badly, but that South West Africa is our country and we wish to be our own masters.

There are some who will say that they are sympathetic with our aims, but that they condemn violence. I would answer that I am not by nature a man of violence and I believe that violence is a sin against God and my fellowmen. S.W.A.P.O. itself was a non-violent organization, but the South African Government is not truly interested in whether opposition is violent or non-violent. It does not wish to hear any opposition to apartheid. Since 1963, S.W.A.P.O. meetings have been banned. It is true that it is the tribal authorities who have done so, but they work with the South African Government, which has never lifted a finger in favor of political freedom. We have found ourselves voteless in our own country and deprived of the right to meet and state our own political opinions.

Is it surprising that in such times my countrymen have taken up arms? Violence is truly fearsome, but who would not defend his property and himself against a robber? And we believe that South Africa has robbed us of our country.

I have spent my life working in S.W.A.P.O., which is an ordinary political party like any other. Suddenly we in S.W.A.P.O. found that a war situation had arisen and that our colleagues and South Africa were facing each other on the field of battle. Although I had not been responsible for organizing my people militarily and although I believed we were unwise to fight the might of South Africa while we were so weak, I could not refuse to help them when the time came.

My Lord, you found it necessary to brand me as a coward. During the Second World War, when it became evident that both my country and your country were threatened by the dark clouds of Nazism, I risked my life to defend both of them, wearing a uniform with orange bands on it.

But some of your countrymen when called to battle to defend civilization resorted to sabotage against their own fatherland. I volunteered to face German bullets, and as a guard of military installations, both in South West Africa and the Republic, was prepared to be the victim of their sabotage. Today they are our masters and are considered the heroes, and I am called the coward.

When I consider my country, I am proud that my countrymen have taken up arms for their people and I believe that anyone who calls himself a man would not despise them.

In 1964 the A.N.C. and P.A.C.* in South Africa were suppressed. This convinced me that we were too weak to face South Africa's force by waging battle. When some of my country's soldiers came back I foresaw the trouble there would be for S.W.A.P.O., my people, and me personally. I tried to do what I could to prevent my people from going into the bush. In my attempts I became unpopular with some of my people, but this, too, I was prepared to endure. Decisions of this kind are not easy to make. My loyalty is to my country. My organization could not work properly—it could not even hold meetings.

I had no answer to the question "Where has your non-violence got us?" Whilst the World Court judgment was pending, I at least had that to fall back on. When we failed, after years of waiting, I had no answer to give to my people.

Even though I did not agree that people should go into the bush, I could not refuse to help them when I knew that they were hungry. I even passed on the request for dynamite. It was not an easy decision. Another man might have been able to say "I will have nothing to do with that sort of thing." I was not, and I could not remain a spectator in the struggle of my people for their freedom.

I am a loyal Namibian and I could not betray my people to their enemies. I admit that I decided to assist those who had taken up arms. I know that the struggle will be long and bitter. I also know that my people will wage that struggle, whatever the cost.

Only when we are granted our independence will the struggle stop. Only when our human dignity is restored to us, as equals of the whites, will there be peace between us.

We believe that South Africa has a choice — either to live at peace with us or to subdue us by force. If you choose to crush us and impose your will on us then you not only betray your trust, but you will live in security for only so long as your power is greater than ours. No South African will live at peace in South West Africa, for each will know that his security is based on force and that without force he will face rejection by the people of South West Africa.

My co-accused and I have suffered. We are not looking forward to our imprisonment. We do not, however, feel that our efforts and sacrifice have been wasted. We believe that human suffering has its effect even on those who impose it. We hope that what has happened will persuade the whites of South Africa that we and the world may be right and they may be wrong. Only when white South Africans realise this and act on it will it be possible for us to stop our struggle for freedom and justice in the land of our birth.

*African National Congress and Pan Africanist Congress.

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Additional Information

Publications about South West Africa available from the American Committee on Africa include:

South West Africa. Information Sheet, November, 1967.

Summary of a Report to the United Nations Council for South West Africa. February, 1968.

Southern Africa: Crisis for American Policy.

The Terrorism Act.

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