



LAWYERS AGAINST APARTHEID

“Soldiers came. They kicked me with their boots and punched me on the legs and chest. In the police station two soldiers connected an electric tube onto my leg and switched it on. It was bad, I was shaking... My mother brought me food but the soldiers ate it. In the prison I was in solitary confinement. I was crying and just sitting. After three weeks I was released. My ears were bleeding and my head hurt.”

Mzimkulu Ngamlana, aged 18

FREE THE CHILDREN

FROM APARTHEID

“I went into the bedroom to get something and I heard a bang. I went out and saw a masked man. I turned to run and was shot; I continued to try and run away but another man stood up in front of me and knocked me down. I was shot in the back as I lay on the ground.”

Nthabiseng Mabusa, aged 13, now paralysed from the waist down



“Let us tell the truth and the truth only. When a regime refuses to release an 11-year-old child on bail because this 11-year-old would be a danger to the security of the State then there must be something drastically wrong with those adults... I believe that there is very little that can be done to save and protect the brutalised children of South Africa without necessarily removing the apartheid system. The racist apartheid system is evil and can only survive by murdering hundreds of thousands of the defenceless masses of South Africa.”

*Reverend Frank Chikane, Secretary
General of the South African Council of
Churches*

CHILDREN UNDER APARTHEID

REPRESSION AND RESISTANCE

MANY CHILDREN testified in person to over 700 delegates from 45 countries at the International Conference on Children, Repression and the Law in Apartheid South Africa, convened in Harare in September 1987. These children came to Harare to speak for the thousands of others who suffer under apartheid.

Growing up under apartheid

Apartheid affects every aspect of the lives of black youth. Thousands of black children die from preventable disease and starvation, whilst white children enjoy one of the highest standards of health in the world. Three hundred and seventy eight out of every 1,000 black children die before the age of one, as opposed to 12 out of every 1,000 white children. Between 1960 and 1975 nearly half of the 92,379 children admitted to Natal's major black hospital were seriously malnourished and over a quarter died.

The system of influx control and migratory labour means that families are constantly uprooted and fragmented. While men are forced to seek work in the cities and mines, women and children are left in the rural areas and Bantustans. Sometimes both parents are absent, leaving the children with grandparents.

Black children are denied the right to a proper education. When Verwoerd, the then Minister of Education, and architect of apartheid, introduced "Bantu Education" in 1953, he stated: "If the native in South Africa today in any kind of school in existence is being taught to expect that he will live his adult life under a policy of equal rights, he is making a big mistake... There is no place for him in the European community above the level of certain forms of labour." These words still represent the State's view today. Schools are racially segregated; education up to the age of 16 is compulsory for white children but not for black children. In 1984 the annual expenditure on education was £827 for each white child as opposed to £117 for each black child.

There is no legal protection prohibiting child labour. On white farms the use of black children as farm workers is an integral feature of apartheid.

South Africa's war of destabilisation against the front line states has resulted in thousands of children being orphaned, starved and maimed by the South African Defence Force (SADF) and its surrogates in Mozambique and Angola—the MNR and Unita. By the end of 1986 an estimated 140,000 children under five had died as a result of South Africa's aggression beyond its borders.

Detention

The limited protection given to children under the Prisons Act 1959 with respect to detention is subordinated to the security legislation and expressly overridden by the emergency regulations. Between 1984 and 1986 some 11,000 children were detained without trial, 18,000 arrested on charges arising out of protest action, and 173,000 held awaiting trial in police cells. During the same period over 300 children were killed by the security forces. Since the proclamation of the full State of Emergency on 12th June 1986, over 10,000 children under 18 have been detained. In *Makhajane v Minister of Law and Order* (29/8/86) the court rejected the submission that special circumstances should be necessary to justify the detention of a child. Parents are frequently unaware of a child's detention; the regulations make no provision for parents to be informed that their child has been detained.

Child detainees are treated no differently from adults; they have been kept in cold, unsanitary, overcrowded cells with adults, or in solitary confinement.

Torture

Thousands of affidavits sworn by children throughout the country testify to the most unspeakable torture whilst in police custody. Beatings, sexual abuse, electric shocks, attempted strangulation and suffocation, food and sleep deprivation, are routinely carried out on children in detention, to force them to sign "confessions" or to obtain information. Torture of children extends beyond the confines of the police cells. Reports of "mobile torture squads" are increasing. In one case a 15-year-old Soweto youth wearing a Free Nelson Mandela t-shirt was dragged into a SADF mini-bus, kicked and punched, and wired up to an electric generator. After his release a pathologist found thermal burn marks on his skin consistent with electric shock torture. In November 1986 the Detainees' Parents' Support Committee (DPSC), a nationwide monitoring body, published a dossier on children under the State of Emergency which concluded that: "At first hearing these kinds of reports it would seem that police and other security forces

are involved in random acts of violence. However, when these reports are all taken together, what is most clear is the way in which such incidents add up to form a systematic campaign of terror against children..."

Court Process

The court process affords no protection to children. Trials have been known to take place on first hearing, and sentence passed on children who are unrepresented, unaware of the court proceedings, or even of the language in which the court process is taking place. Under the Child Care Act 1982 no child under 18 should be imprisoned. However, juveniles convicted under security laws and certain other "offences" are excluded from the provisions of the Child Care Act. In January 1987 there were at least 2,815 children under 18 in prison.

Resistance

The same courage that brought the children to Harare to tell the international community about their plight will ensure that children remain at the forefront of the struggle against apartheid. Since the protests of 1976, when an estimated 1,000 children were killed, children have become the special targets of the regime's brutality, but they have shown tremendous determination to organise and play a part in changing the society in which they live. They have boycotted classes in protest at the presence of the army and police in the schools; they have organised community defence units against the state-sponsored vigilante groups. Regional youth congresses were set up, culminating in the formation of the South African Youth Congress (SAYCO) in March 1987. SAYCO is one of the most vital opponents of apartheid. It has adopted the Freedom Charter and spearheaded a number of major initiatives including the campaign to save the lives of those on death row.

The regime has responded by increasing attempts to crush the resistance of the youth. Army and police units have been dispatched to schools to prevent the implementation of people's education; activists are detained; meetings are prohibited. A new and sinister development is the establishment of the National Security Management System, which operates Joint Management Centres (JMCs) comprising the police, military, local authority officials and business representatives. Their aim, amongst other things, is to indoctrinate the youth into submission. A leaked document submitted by the local JMC to the Lekoa Town Council (which covers most of the Vaal Triangle, where a successful rent boycott persists) stated: "The hearts and minds of the youth must be won. They must be persuaded to convince their parents to pay rent... This should be done at weekend camps where they must be given lectures on why it is necessary to pay rent...and the future of black constitutional reform."

These desperate attacks by the state on the youth clearly demonstrate the invincible threat to white minority rule that the children of South Africa represent.

International Action

All those participating in the Harare Conference committed themselves to concerted action to keep the world aware of the plight of South Africa's children, and to use all their resources to work towards the achievement of a united, non-racial and democratic South Africa.

All the lawyers attending the Conference agreed on a Declaration refuting the belief that the rule of law exists in South Africa and reminding the judges of South Africa of their legal responsibility under Nuremberg Principles for the enforcement of apartheid laws and calling on those judges to resign.

Encouraged by the formation of Lawyers Against Apartheid in Britain, the Conference supported a call for similar groups to be set up in all countries. An International Lawyers Group for Action Against Apartheid was initiated, and will be co-ordinated by the Zimbabwe Association of Democratic Jurists in Harare. Professional associations of lawyers in all countries were called upon to sever links with non-democratic professional legal associations and the judiciary in South Africa and Namibia, and all lawyers world-wide were urged to refuse to use their professional skills in any manner which assists the apartheid regime.

INTERNAL SECURITY ACT 1982

THE SWEEPING powers conferred on the security forces under this Act to detain people without trial or charge were examined in the July 1987 Bulletin. Further, the Act is intended to turn legitimate political protest into outlawed criminal activity. Among the more notorious "offences" enumerated by this Act are the following:

Terrorism: Section 54 (1) The essence of this "offence" is the commission of violence with the intention of overthrowing the state. It is very widely defined. It includes even the mere encouragement of the threat of violence with the necessary intent. Such intent may be to achieve, bring about or promote any constitutional, political, industrial, social or economic aim or change, to "induce the Government...to do or to abstain from doing any act or to adopt or to abandon any particular standpoint" or to induce the general public to do or to abstain from doing any act.

Terrorism carries the death penalty.

Subversion: Section 54 (2) The "offence" of subversion is likewise aimed at preventing the promotion of constitutional or political change. The prohibited conduct can include any act or attempted act that prejudices or interrupts the supply or distribution of commodities or foodstuffs. This would clearly cover consumer boycotts.

The list of unlawful acts extends to those that cause or encourage feelings of hostility between different "population groups". Defence lawyers have tried in vain to argue that blacks need no incitement to resent white racism and that the apartheid system itself causes such feelings. The courts have refused to entertain this defence. "Subversion" may be committed in South

Africa or elsewhere. The maximum penalty is 25 years' imprisonment. **Sabotage: Section 54 (3)** A person is guilty of sabotage if they commit or attempt to commit any act with the prohibited intent. In effect, the subsection outlaws a state of mind, since there is no restriction of any kind on the type of act that is contemplated. There is sufficient looseness in the wording to include anyone who has within their conscience the eradication of apartheid. The task of the prosecution is simply to show, inter alia, that it was the purpose of the accused to interrupt, impede, prejudice or endanger the supply of services or the production or distribution of goods by the state or the private sector.

Advancing the Objects of Communism: Section 55 The Suppression of Communism Act of 1950 made specific provision for the Communist Party of South Africa to be banned, and made communism a criminal offence. "Communism" was defined so broadly as to prompt the Johannesburg Bar to say that the objects of "communism" as defined "have no legal bounds and...are a complete negation of the liberty of the subject as guaranteed by the rule of law".

The Act was used to charge, imprison, banish and ban people of widely differing ideologies, their common factor being their opposition to apartheid. Many of the provisions of the Suppression of Communism Act are contained in the Internal Security Act of 1982. Section 55 makes it an offence to advocate, defend or encourage the objects of communism or to do any act whatsoever for the purposes of achieving those objects. "Communism" is defined in even wider terms than the 1950 Act—any point of view which is related to Marxism in any way and which aims at the establishment of any form of socialist state is absolutely prohibited.

EMERGENCY REGULATIONS IN NAMIBIA

THE SOUTH WEST Africa Constitution Act of 1968, enacted two years after South Africa's mandate over Namibia was terminated by the United Nations, empowers the South African President to make laws by proclamation for "the regulation of any matter in Namibia".

By virtue of this power the President of South Africa proclaimed a state of emergency in Namibia on 4th February, 1972, which resulted in draconian restrictions on the freedom of movement, assembly and other basic civil liberties. In 1977 the office of Administrator-General was created and with it the power to make law by proclamation and to amend or repeal any act of the South African Parliament relating to Namibia.

The regulations passed by the Administrator-General collectively referred to as "Curfew-Provisions", comprise the following Proclamations:

Proclamation AG9 of 1979: The Administrator-General can declare any part of Namibia a "security district" if he is satisfied that this is "necessary for the security of the territory or the protection of the public or the maintenance of public order". Several areas of northern Namibia, namely Ovambo, Okavango and Eastern Caprivi, have been declared "security districts" since 1977. The Administrator-General or anyone acting on his behalf has wide-ranging powers to make orders within these areas including the prohibition

of any person from residing, being within, or leaving a particular place or area. He also has power to require any person to leave, not return to, or not to carry on any specified activity in a particular place.

Proclamation AG26 of 1978: prohibits anyone from driving a vehicle at any time during the night in the district of Ovambo without the permission of the security forces.

Proclamation AG50 of 1979: The whole area of Ovambo is subject to a curfew under which no one is allowed to be outside a dwelling place between sunset and sunrise without the written permission of a security officer. Anyone seen outside curfew hours may be shot on sight, and this has happened on numerous occasions.

An application to the Supreme Court to declare the curfew regulations ultra vires and of no force and effect was rejected, eliciting the judgement that "the curfew provision of AG50 of 1979 is clear and certain and not unreasonable" (*Kauluma and Others v The Cabinet for the Interim Government of South West Africa and Others 1987*).

The restrictive and stifling curfew and other proclamations illustrate the extent to which the South African regime has to go, and is prepared to go, to maintain its illegitimate occupation of Namibia in the face of total opposition by the Namibian people.

AN END TO EFFECTIVE LOCAL AUTHORITY

ACTION AGAINST APARTHEID?

LOCAL AUTHORITIES in Britain have responded positively to the calls made by the black majority in South Africa and Namibia to boycott the products of apartheid. Currently some 162 local councils have a policy of boycotting apartheid products. Some have refused to contract with companies such as Shell and Barclays Bank that have or have had significant links with South Africa.

Lewisham Council has recently borne the brunt of Shell's determination to prevent the increasingly widespread opposition to its links with apartheid. Shell sought judicial review by way of a declaration that Lewisham Council's decision not to purchase its supplies was ultra vires and unlawful. On 21st December 1987 the High Court gave judgement for Shell. It ruled that the Council's intention was not only to promote harmonious race relations but was also to persuade other authorities to take similar action. Further, it stated that if the Council's action had been taken only in pursuit of its responsibility for good race relations in the borough, its decision not to contract with Shell would have been upheld, but its intention of changing company policy over South Africa coupled with its involvement in encouraging boycotts by other councils made the decision ultra vires. Though a defeat for Lewisham, the judgement was important in confirming that the rights of local authorities under the Race Relations Act to promote good race relations include the right to avoid contracts with companies that have apartheid links.

Lawyers Against Apartheid

A major encroachment on effective local authority action against apartheid comes from certain provisions of the **Local Government Bill**, which at the time of writing has passed through the House of Lords. **Clause 17** of this Bill imposes a duty on local authorities, in relation to purchasing and contracts, to exercise any such function without reference to matters which are "non-commercial". The definition of "non-commercial" matters includes "the country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of contractors or associated bodies". **Clause 18** provides that Section 71 of the Race Relations Act 1976 (which provides for a general duty of local authorities to promote good race relations) shall not require or authorise a local authority to exercise any function in relation to purchasing or contracts by reference to a non-commercial matter. Thus these clauses could remove from local authorities the right to refuse to purchase South African or Namibian goods, or enter into contracts with companies that have such links.

Local authorities in Britain have been imposing bans on products from South Africa since 1960. The above-cited clauses will have a number of disastrous consequences on effective boycott action to isolate apartheid. If South Africa was able to re-establish a significant market for its products among local authorities, this would provide much-needed foreign exchange which the state requires for arms, oil and other strategic material. By preventing local authorities from taking action which is both demanded by local communities and consistent with Commonwealth and United Nations policy, Britain will be further isolated.

LAWYERS IN DETENTION

The July Bulletin highlighted the case of Raymond Suttner, a senior law lecturer at Witwatersrand University and Transvaal Education Officer of the UDF, who is now entering his 22nd month in emergency detention in South Africa. On 6th July 1987 Raymond Suttner's application for release from detention was rejected by the Supreme Court, and he continues to be held in solitary confinement without charge.

Raymond Suttner's plight is shared by many South Africans who are enduring long periods of detention, torture and abuse because of their commitment to the struggle to end apartheid and to establish a free and democratic South Africa. As a fellow lawyer, please demonstrate your solidarity with Raymond Suttner:

- 1 Send letters of concern to the South African Embassy in Trafalgar Square.
- 2 Urge the Foreign & Commonwealth Office to make representations about Raymond Suttner to the South African Government.
- 3 Send letters of concern to the Minister of Law & Order and the State President, both c/o Houses of Parliament, Cape Town 8000.
- 4 Send letters of concern to the Commissioner of Police, Private Bag X302, Pretoria 001.
- 5 Send letters of support to Raymond Suttner, Project One, Johannesburg Prison, Private Bag X04, Mondeor, 2110.
- 6 Encourage your colleagues/firm/chambers/student group to take similar action.

For more information on Raymond Suttner write to:

PO Box 353, London WC1R 5NB.

LAWYERS AGAINST APARTHEID was formed in December 1986 to mobilise the legal community in Britain to support the liberation struggle in Southern Africa. Regular group meetings are held on the last Wednesday of each month in the Nalگو Building, 2 Mabledon Place (off Euston Road), London WC1 at 7pm. All those interested in the work of the group are welcome to attend.

CHILDREN, APARTHEID AND REPRESSION IN SOUTHERN AFRICA

A One Day Conference to consider the role of the professions and related bodies in Britain in the campaign against apartheid.

SATURDAY 23RD APRIL 1988

10AM-5.30PM

CITY UNIVERSITY, ST JOHN'S STREET, LONDON EC1

The Conference will provide an excellent opportunity for members of the professions in Britain to learn more about the serious plight of children in Southern Africa. A seminar specifically for members of the legal profession will be included, and will be addressed by a South African lawyer. The seminar will focus on the contribution that can be made by the legal profession in Britain to the work against the repression of children in Southern Africa and wider anti-apartheid issues.

The registration fee is £10 for organisations, £5 for individuals and £2.50 concessions. Registration forms and further information on the Conference are available from: 13 Mandela Street, London NW1 0DW; tel 387 8977.

SAVE THE SHARPEVILLE SIX

Five men and one woman—the Sharpeville Six—face imminent execution in South Africa. These young victims of apartheid had their appeal against their death sentences rejected on December 1st 1987, even though the Appeal Court judge stated that: "I shall therefore assume, for the purposes of my judgement, that it has not been proved in the case of any of the six accused convicted of murder that their conduct has contributed causally to the death of the deceased."

A Petition for Clemency to the State President—the last chance for a reprieve—has been submitted. Thousands of individuals and organisations have joined the call to save the lives of the Sharpeville Six, including the UN Security Council, the EEC, the Archbishop of Canterbury, Cardinal Hume and the Commonwealth Foreign Ministers' meeting.

There will be a **protest** every **Wednesday** starting February 10th 1988 from 6 to 7pm outside the South African Embassy, Trafalgar Square, London WC2.

For more information on the Sharpeville Six and other apartheid executions, write to: **SATIS, 13 Mandela Street, London NW1 0DW.**

MEMBERSHIP FORM

Membership is open to all members of the legal community living or working in Britain, as well as to local and national organisations such as solicitors firms, barristers chambers and trade unions.

Name of Individual/Organisation

Contact Name (for Organisation)

Mailing Address

Tel No Date

Fee enclosed Receipt Required?

Annual fees: waged individuals: £5; unwaged individuals: £1; students, pupil barristers, articled clerks: £2; local organisations: £15; national organisations: £25

Please return to: PO Box 353, London WC1R 5NB