



# LAWYERS AGAINST APARTHEID

## SAVE THE COMBATANTS!

On 27th April, 1989 the apartheid courts sentenced three combatants of Umkhonto we Sizwe (MK), armed wing of the ANC, to death for alleged military activities against the apartheid state. Jabu Masina, Ting Ting Masango and Neo Potsane were sentenced to death by the Supreme Court sitting in Delmas in the Transvaal. A fourth defendant, Joseph Makhura, was sentenced to 25 years imprisonment.

The trial is of crucial importance in that the four refused to recognise the legitimacy of the court to try them, and demanded to be treated as prisoners-of-war under the Geneva Conventions. Speaking on behalf of all four, Jabu Masina declared:

"Our refusal to participate in the proceedings stems from our belief that this court and this judicial system cannot operate independently from the political system within which it functions.

Furthermore, all of us were held in solitary confinement without access to legal representation for eight months. During this time we were tortured and brutally assaulted...

We as members of Umkhonto we Sizwe, the military wing of the African National Congress...are involved in a war of national liberation. This is true. Also true is that the South African Government and defence force leaders constantly state that South Africa is in a state of war. We, as soldiers, cannot and should not stand trial in a civilian court".

As members of MK, the four were involved in a series of military operations. All the targets they attacked were military and were carefully selected to avoid civilian casualties.

The accused did not instruct lawyers and refused to plead or participate in the court proceedings. After their convictions, their families offered evidence of extenuating circumstances for them. The trial judge found that there were extenuating circumstances, but was overruled by the two assessors sitting with him. The three were then sentenced to death.

The recognition of captured ANC combatants as prisoners-of-war is of great importance for the work of anti-apartheid lawyers in Britain. The people of South Africa, led by the ANC, have a right under customary international law, to conduct armed struggle in pursuit of their right to self-determination. Wars of national liberation against colonial rule and racist regimes should, under customary international law, be considered international conflicts in which combatants are entitled to the protection of the Geneva Conventions of 1949. Soldiers of Umkhonto we Sizwe thus have a right not to be executed, tortured, detained or imprisoned by the apartheid regime.

The Delmas Combatants have now lodged an appeal against their convictions. If they had not done so they could have been executed within 2 months. A great onus now lies on the international community to ensure that these young freedom fighters are not hanged on Pretoria's gallows.

PLEASE WRITE AS A MATTER OF URGENCY TO THE PRIME MINISTER CALLING ON THE BRITISH GOVERNMENT TO INTERVENE AND STOP THESE EXECUTIONS

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A more detailed discussion of the right to prisoner-of-war status under international law is contained in the next issue of the Bulletin.

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## ▲ RESTRICTION OF PERSONS ▲

Thousands of people in South Africa are virtual prisoners in their own homes because of draconian orders that restrict their lives.

Banning and restriction orders were introduced by the Riotous Assemblies Act of 1930. Their scope has been greatly extended by subsequent legislation. The Suppression of Communism Act of 1950 authorised "house arrest". The General Laws Amendment act of 1962 enabled persons to be banned simply by "listing" their names in the Government Gazette. The Internal Security Acts of 1976 and 1982 extended the terms upon which banning orders could be issued simply to persons deemed to be a threat to state security.

Increased political resistance in the black townships in 1985 prompted the regime to declare a partial state of emergency (which since 1986 has been continuous). Under powers conferred by the Public Safety Act of 1953 the Minister of Law & Order is authorised to apply such restrictions as he deems necessary. Section 3(b) of the Security Emergency Regulations authorises the release of detainees subject to strict and severe conditions which remain in force until the state of emergency is lifted; any breach could result in a fine of R20,000 or up to 20 years imprisonment.

Included among those who have had restriction orders placed on them are a number of lawyers. Raymond Suttner, senior law lecturer at Witwatersrand University and Transvaal Education Officer of the UDF, was released from detention in September 1988, having been held in solitary confinement without charge since 12th June 1986. A restriction order was served on him preventing him from taking part in the activities of certain organisations; he cannot leave his home between 6pm and 6am, nor can he receive more than 4 visitors at a time; he is banned from attending meetings consisting of 5 or more people and must report to the police twice daily. He cannot leave the district of Johannesburg at any time and is not allowed to enter educational institutions.

Other lawyers who have had restriction orders served on them include Azhar Cachalia from Johannesburg, Archie Gumede, a Durban lawyer and Vice President of the UDF, and Yunus Mohammed, a Durban lawyer with chambers in London.

Earlier this year, hundreds of detainees who had been in detention for months and years, went on a nationwide hunger strike. This resulted in the release of many such detainees. However, the vast majority of them were served with draconian restriction orders upon their release. The increasing use of these orders, which violate the most basic human rights, is extremely disturbing. The orders are virtually unchallengeable, as the authorising minister need not give reasons for their issue. The security forces have almost unlimited "legal" authority without the possibility of judicial intervention and are thus shielded from public scrutiny.

# —NAMIBIA — INDEPENDENCE NOW!—

April 1, 1989 was meant to be D-day for implementation of the UN peace plan for Namibia. Instead, within less than 8 hours of the ceasefire time, South Africa had already violated the terms of the agreement. That South Africa was the guilty party and not SWAPO as the South Africans, Mrs. Thatcher and the majority of the British media would have us believe is clear from an analysis of the terms of the plan as well as eye-witness accounts provided to the Council of Churches of Namibia.

In terms of UN Security Council Resolution 435 of 1978, both SWAPO and South Africa forces in Namibia at the time of the ceasefire were to be restricted to bases inside Namibia. On April 1, SWAPO combatants in northern Namibia were assembling peacefully, in anticipation of being confined to base under the supervision and control of UNTAG. While doing so they were attacked by South African military forces. A witness, Jekonia Ngenomesho, described how he had seen a group of about 60 SWAPO combatants regrouping in order to hand themselves over to UNTAG. While they were asking him whether he had seen the UNTAG forces, they heard the sound of Casspirs (armoured vehicles used by the SADF). The South Africans started shooting and Ngenomesho himself was shot in the leg.

The next day the South African police stopped hundreds of SWAPO supporters in convoys returning to northern Namibia after attending a rally in Katutura township in Windhoek. A peaceful march of workers protesting at the privatisation of major government assets and services was also halted by armed police outside the business section of Windhoek. Such actions of intimidation by the South Africans are in disregard of the spirit and letter of Resolution 435.

The speed with which Mrs. Thatcher condemned SWAPO for allegedly breaching the UN plan shows how willingly she accepted the South African account without even consulting with the Namibian people. Furthermore, there has not been a single protest at actual incursions into Namibia by members of the South African sponsored Angolan terrorist organisation, UNITA.

The UN forces have been ineffective in ensuring that the UN plan is kept on course. Delegates at a meeting in London on 13th May were reminded by Jason Angola Chief Information Officer of SWAPO, that by then, South Africa should have reduced its forces in Namibia to 12000. It has not. Nor has it disbanded the notorious Koevoet. Under the UN plan, all political prisoners should have been released by 4th June 1989. SWAPO has shown its goodwill by releasing 199 detainees held for attempted spying. South Africa has not released any political prisoners. Nor has it repealed all apartheid legislation, as required by the UN plan. The legislation listed to be repealed omits many repressive and discriminatory measures, such as Proc. AG 8.

In the meantime, there are definite signs of election-rigging by the South African authorities, for instance, the draft election proposals make no provision for the electoral roll being available for public inspection, leading to potential abuse.

## NO APARTHEID EXECUTIONS!

14 people have been sentenced to death in South Africa, among 25 who were convicted on the basis of 'common purpose' of the murder of a policeman in the Northern Cape town of Uptington. The policeman was one of 4 who had shot dead a pregnant woman a few days earlier and was never charged. Amongst those sentenced to hang are a domestic servant in her sixties, Evelina de Bruin, a mother of 10 children and her common law husband. Only one of those sentenced to death was actually found to have struck the blows that caused death.

### URGENT PROTESTS TO:

State President, Unions Buildings,  
Pretoria 0001.

Britain, as a permanent member of the UN Security Council, has a special obligation to ensure that the UN plan is implemented in its entirety.

Letters should urgently be sent to Margaret Thatcher and Lynda Chalker, Foreign and Commonwealth Office, King Charles Street, London SW1, protesting at:

- the reduction in the UNTAG force from 7,500 to 4,800
- the UNITA incursions into Namibia
- the refusal to properly disband Koevoet
- the refusal by South Africa to release political prisoners

and urging the government to ensure that UNTAG takes proper charge and control of the situation in Namibia to ensure that the UN plan is properly implemented.

# LEADERS OF THE STRUGGLE

## 1. ALBERTINA SISULU

Albertina "Ma" Sisulu has been at the forefront of the liberation struggle for over 40 years. Originally from the Transkei, she trained as a nurse and midwife. In 1944 she married Walter Sisulu but they have barely spent 9 years together. Walter became Secretary-General of the ANC and Albertina took on the responsibility of supporting the family on her earnings. Walter was constantly in prison or underground and in 1964 he was sentenced to life imprisonment along with Nelson Mandela and the other Rivonia Trialists.

Albertina had been involved in the ANC Women's League since the 40s, becoming its treasurer. She was elected onto the executive of the Federation of South African Women when it was formed in 1954 and was a leader in the campaign to boycott Bantu education. She was at the forefront of the historic demonstration of 20,000 women in Pretoria in August 1966 protesting against the extension of pass laws to African women.

In 1958 Albertina was imprisoned for taking part in an anti-pass law demonstration. In 1963 she was detained and held in solitary confinement for 7 weeks. Soon after Walter was sentenced to life imprisonment, Albertina was served with a 5 year banning order, which was continually renewed until 1983. In 1983 she was arrested for singing ANC songs at a funeral. She was held without trial for more than 6 months. Elected Co-President of the UDF, she was detained with other UDF leaders in 1984. They were charged with high treason and spent several months in jail before the case collapsed. In February 1988 she was again prohibited, under the state of emergency, from all political activity. Her children, too, have been detained, restricted and 2 of them forced to flee South Africa.

Despite all the hardship, Albertina Sisulu continues to fight for freedom in South Africa. She is a greatly loved and respected leader of the liberation struggle.

## EVENTS DIARY

### SATURDAY 24th JUNE 1989

- 'Outspan Out' Day - local AAM group action against Outspan fruit retailers - contact AAM for details of your local group.
- AAM 30th Anniversary Benefit, Camden Centre, Bidborough Street, London NW1 8pm till late; Julian Bahula & other bands.
- March for Namibia - Manchester Assemble 11am All Saints Square, Oxford Rd, march to Albert Square- Rally 1pm Town Hall

### WEDNESDAY 26th JUNE 1989

Lawyers Against Apartheid Meeting  
7pm NALGO Building, 1 Mabledon Place (off Euston Rd, nearest tube King's Cross) WC1.

### MONDAY 26th JUNE 1989

- Commemoration of South Africa Freedom Day Conway Hall, Red Lion Square, London WC1. 7.30pm. Speakers inc. NEC member of ANC, Archbishop Huddleston, Bernie Grant, MP.
- 'Operation Orange' - delivery of thousands of messages calling for sanctions to 10 Downing Street - contact AAM for times.

### SATURDAY 1st JULY 1989

#### ACTION ON NAMIBIA!

- Mass Picket of South African Embassy, Trafalgar Square, London WC2 11am - 1pm
- March for Namibia, Liverpool. Assemble 11.30am Sefton Park; Rally at 1.30pm at Central Hall, Renshaw Street.
- Mass Picket of SA Consulate, Glasgow: 12 noon - 1.30pm. Mandela Place

For details of the above events, contact the AAM on 01-387-7966 (or LAA events - contact 01-720-3431). If members can help with legal stewarding of demos/pickets etc. outside London, please contact AAM or LAA asap.

I would like to join Lawyers Against Apartheid. Please send me details of the group.

I would like to join Lawyers Against Apartheid. I enclose my annual membership fee of £15 (waged)/£1 (unwaged); £2 (students, pupils, articled clerks); £30 (organisations).

NAME.....

ADDRESS.....

TELEPHONE NO.....DATE.....

Please return to: Lawyers Against Apartheid, P.O. Box 353, London WC1R 5NB