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# The Churches

Strong identification with the colonial system was an early attitude of the German Lutheran and Catholic missionaries, though less marked among the Finnish Lutherans in Ovamboland. Nevertheless the church grew to include the majority of the population. Until the 1960s it was responsible for all education for black people, and today its network of missions, schools, hospitals and clinics is particularly important in the north. Inevitably, many of the members of the liberation movements were Christians. Gradually the institutional church became more Namibian and more vocal. A turning point came in 1971, when the black leaders of the two largest Lutheran churches issued an open letter repeatedly referring to the UN Charter of Human Rights and denouncing the conduct of the South African administration. Striking migrant workers applauded the Lutheran bishop. In the succeeding decade many missionaries were expelled — including three Anglican bishops — and church spokesmen blamed the South Africans for two bombings of the Lutheran press at Onipa, in 1973 and 1980, whilst on the other hand parts of the church continued to support the status quo. In 1978, however, sufficient common ground was established for all the main denominations except the white Dutch Reformed to collaborate through the Council of Churches for Namibia. Lutheran, Anglican and Catholic bishops went to Geneva in January 1981 to hold discussions behind the scenes at the abortive conference between SWAPO and South Africa. The churches, now almost all black-led, have come to use the Council of Churches to issue statements to South Africa and to international bodies calling for peace, human rights and free elections; at the same time they try to foster development in the less war-torn regions of the country.

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## Statement by the Namibian Council of Churches to the US Delegation on its Visit to Namibia, 12 June 1981

The Council of Churches in Namibia (CCN), representing more than 75% of Christians in this country, is continuously committed to work for justice, peace and reconciliation.

It is out of this commitment and firm desire to see peace that the Council of Churches in Namibia has been especially concerned over the years about a peaceful and just solution of the political problems of our country and through various actions has supported the implementation of the United Nations Security Council Resolution 435 (1978).

We had appealed on numerous occasions to the United Nations, South Africa and the five western countries (USA, West Germany, Britain, France and Canada) for an immediate implementation of the UN plan. It is our conviction that this would prevent the escalation of violence and bloodshed and the growing hatred amongst the people of Namibia.

While there are now talks about the protection of the rights (privileges) of minorities, we are dumbfounded to learn that the long overdue right of the majority of the nation to determine their own future and to become independent seems to be a secondary matter for some western governments. Thus, the Council of Churches in Namibia believes in the same

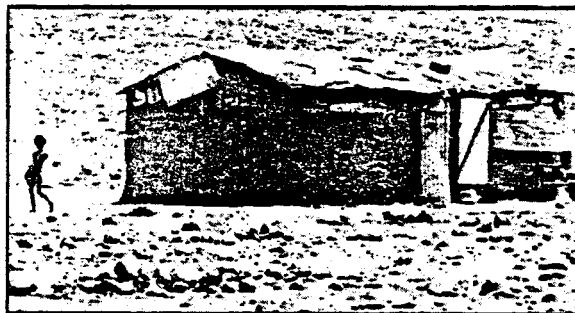
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rights for all Namibians as declared in the UN Declaration of Human Rights.

It is in the interests of all our people, therefore, that every effort be made to immediately resume discussions aiming for a cease-fire date, and a start of implementation in accordance with Security Council Resolution 435 (1978). We reiterate that it is our continued conviction and confidence that the only practical peaceful solution lies in the hands of the United Nations.

We feel that any party involved in the negotiations who does not have the faith to co-operate in the national interest and who is insensitive to the suffering of our people should be held responsible for any failure of a peaceful solution.

We therefore again appeal to our congregation and all Christians throughout the world to pray without ceasing for the peace of Namibia (Col 4:2).



Living conditions in Damaraland

IDAF

## Resources

Namibia in the 1980s *CIIR/British Council of Churches Position Paper, October 1981. 64pp, price £1 available from the organisations listed below. This contains a short bibliography.*



Australian Catholic Relief, PO Box J124, Brickfield Hill, N.S.W. 2000, Australia.



Canadian Catholic Organisation for Development and Peace, 3028 Danforth Avenue, Toronto, Ontario, M4C 1N2, Canada.



Catholic Institute for International Relations, 22 Coleman Fields, London N1 7AF, UK.



Trocaire — Irish Catholic Agency for World Development, 169 Booterstown Avenue, Co Dublin, Ireland.

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<b>Economy</b>	(1979) 1) GNP US\$ 1120 million GDP US\$ 1680 million The difference between GNP and GDP represents income to foreigners. 2) Per capita GDP: \$1260 Average personal income for Africans: \$188. 3) Main exports: diamonds, uranium oxide, base metals, beef/cattle, fish, karakul pelts (used for astrakhan).
<b>Income distribution</b>	Over 60% of GDP goes to company profits or taxes on profits. Another 24% goes as salaries etc. to whites (8% of population). 12% goes to blacks, i.e. 'Africans' and 'Coloureds' (92% of population).
<b>Land distribution</b>	6500 (white) ranching units cover 40% of land. 120,000 households live on another 40% of the land.
<b>Employment</b>	18% of labour force is unemployed. 45% of labour force is migrant labour, away from families. Almost no legal trade unions for blacks.

## Chronology

<b>Early 19th c.</b>	First white traders and missionaries.
<b>1878</b>	Britain annexes port of Walvis Bay (later transferred to South Africa).
<b>German Colonial Rule</b>	
<b>1883-85</b>	German 'protectorate' declared over rest of Namibia.
<b>1890s</b>	German settlers arrive; blacks evicted from their path.
<b>1904-06</b>	Great Herero and Nama Revolt. Germans adopt policy of genocide. Over 80,000 Namibians killed.
<b>1908</b>	Diamonds discovered; copper and lead mine already open.
<b>1915</b>	German surrender to South African troops.
<b>South African Colonial Rule</b>	
<b>1920</b>	League of Nations gives British Crown Mandate for Namibia, to be exercised by South Africa.
<b>1920s</b>	Boer farmers and fresh waves of German settlers; introduction of South African legislation controlling land and labour. Two risings (100 killed in 1922).
<b>1946</b>	South Africa refuses to recognise UN as successor to League of Nations. Mining boom begins.

<b>1949</b>	First petitions to UN by Namibians for end of South African rule.
<b>1957</b>	Herman Toivo ya Toivo founds Ovamboland People's Organisation (to become SWAPO in 1960).
<b>1959</b>	Police fire on Namibians protesting at apartheid removals — 11 killed.
<b>1962-4</b>	Odendaal Commission recommends establishment of separate 'homelands' for different 'population groups'. South Africa starts implementation.
<b>1966</b>	UN ends South Africa's Mandate, and orders South Africa to withdraw. First SWAPO military actions.
<b>1967</b>	SWAPO members imprisoned — Toivo ya Toivo for 20 years.
<b>1969</b>	SWA Affairs Act no 25 de facto incorporates Namibia into South Africa.
<b>1971</b>	International Court of Justice rules that South Africa occupies Namibia illegally. Mass strike of Ovambo migrant workers.
<b>1973</b>	2½% turnout in Ovamboland elections, boycotted by SWAPO.
<b>1974</b>	UN Council for Namibia Decree no 1 requiring the Council's consent for any mining in Namibia.
<b>1975-6</b>	Independence of neighbouring Angola and abortive South African invasion of Angola. South Africa abandons incorporation of Namibia and calls white-dominated Turnhalle Conference — which proposes independence by 1979. Western powers twice veto sanctions against South Africa when South Africa fails to meet UN deadlines for withdrawal.
<b>1977</b>	Western powers propose settlement plan, with UN sponsored elections. South Africa transfers Walvis Bay back to South Africa. Churches reject Turnhalle.
<b>1978</b>	Western proposals, incorporated in UN Resolution 435, accepted by SWAPO and, initially, South Africa. War intensifies; South Africa kills 700 Namibian refugees in Kassinga raid into Angola. South Africa rejects UN Plan and instead holds internal elections, won after intimidation by the DTA, an alliance of parties from the Turnhalle Conference (SWAPO boycotts elections).
<b>1979</b>	Continued negotiations; SWAPO accept proposals, South Africa alternately delaying and intransigent.
<b>1980</b>	South Africa gradually transfers control of governmental institutions to Namibia. November: DTA do badly in elections for second tier 'ethnic' legislative assemblies. Major incursion into Angola, with use of mercenaries.
<b>1981</b>	January: abortive Geneva Conference. New American administration proposes initially abandonment, then amendment, of Resolution 435. Continued escalation of the war; repeated and prolonged South African attacks into Angola.

# Political Developments

Recent political history has centred round two major developments: the growth of the liberation movement, SWAPO, and the manoeuvres of South Africa to maintain Namibia's dependence whilst preferably granting nominal political independence.

SWAPO emerged in 1960 from a political movement of students and migrant workers. The size of SWAPO meetings and demonstrations, the impressions of church and other workers, and the failure of any other party to establish itself all testify to its widespread support; the South African army itself estimates SWAPO would win more than half the votes in a free election.

South Africa's apparent strategy since 1975 has been to install a pro-South African regime in Namibia and then grant independence, looking for an arrangement similar to the Muzorewa 'internal settlement' in Rhodesia. The Democratic Turnhalle Alliance (DTA), led by Dirk Mudge, has been built up in the hope it would be a viable alternative to SWAPO. The institutions of government have been steadily transferred from Pretoria to Windhoek. By 1981 there was a National Assembly (derived from the 1978 'elections'), a Council of Ministers whose DTA chairman had authority over all internal matters except security, and separate 'ethnic' authorities with jurisdiction over different racial groups. Civil service departments formally separate from their South African counterparts were set up, together with a South West Africa Defence Force (largely composed of South African troops, though with Namibian conscripts). Two problems remained. One was the failure of the DTA to consolidate its position — despite SWAPO's non-participation, the DTA fared abysmally in the November 1980 election for ethnic authorities, losing the key 'whites' authority to the right wing AKTUR with its Afrikaner rancher and civil servant support. These whites suspect the DTA of undermining white privilege — AKTUR on the other hand perpetuates formal apartheid in such fields as education. Blacks suspect the DTA for the opposite reason, anticipating little change. Many of the ethnic administrations are also corrupt. More important, however, was the second problem: the whole edifice rested on the continued presence of large numbers of South African troops.

Since 1977 a Contact Group consisting of the United States, Canada, West Germany, Britain and France, has proposed an alternative procedure,

centred on UN-supervised elections and formalised in UN Security Council Resolution 435. A consistent pattern has recurred in negotiations. Each time South Africa has raised objections — over the election date in 1978, the size of the UN military presence during transition (1979), the location of SWAPO bases after a ceasefire (1979), the idea of a Demilitarised Zone (1980/81) and the supposed lack of impartiality of the UN (1980/81). Often these objections were followed by increased military action against SWAPO (the Kassinga raid which killed 700 people in Angola was made in the midst of negotiations over Resolution 435). It is a matter of record that over all the issues listed above, except the first, SWAPO nevertheless made concessions. Further objections have always been raised, for South Africa was not prepared to accept Westminster-style elections that SWAPO might win, as the Defence Minister told the United States in April 1981. By mid-1981 a further series of negotiations had begun, but the Reagan Administration's failure to condemn South African incursions into Angola threatened the common front of the Contact Group.

Meanwhile, the war in the north has intensified and expanded. The military arm of SWAPO, PLAN, has since 1966 mounted an increasing number of guerrilla attacks on the South African occupying forces and those they see as collaborators. PLAN has widespread support, particularly in Ovamboland, where it is said that SWAPO takes control after sunset. The South African response has been an enormous escalation of the war — by August 1981 some estimates of troop numbers were as high as 90,000, and there were repeated and prolonged invasions of southern Angola. In Ovamboland the telling assumption of the South Africans seems to be that everyone supports the enemy; church sources report repeated massacres of groups of civilians on suspicion. Churches have been desecrated, and a theological seminary firebombed. The people live in the midst of a battlefield, the deprivations of war compounded by drought and the difficulty of sustaining agriculture. As the Council of Churches in Namibia stated in January 1981, commenting on the delays over UN settlement proposals: 'Endless negotiations on minor grounds prolong the acute agony and suffering of our people, as they only increase the numbers of our people who die as a result of the war'. ■



Police break up a rally in Windhoek

# Glossary

AKTUR	Right-wing white party.
DTA	Democratic Turnhalle Alliance. South African-backed alliance of parties established as an alternative to SWAPO.
GDP	Total value of goods and services produced annually within the borders of a country (whether by nationals or foreigners).
GNP	Total value of goods and services produced annually by nationals of a country (whether within the borders or outside).
PLAN	Military arm of SWAPO.
SWAPO	South West African People's Organisation. Liberation movement recognised by the United Nations.

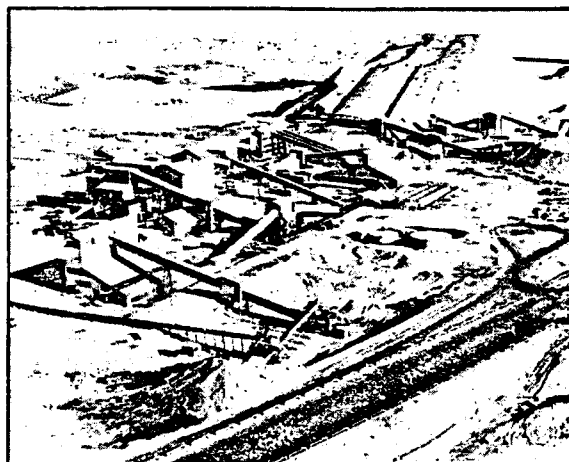
# Economic Situation

## The political economy of theft

Namibia is a classic case of an economy pillaged in the interests of foreigners. In the 19th century a population of less than half a million lived in a country considerably larger than France. Two groups moved in — European settlers who established huge cattle ranches, and foreign mining companies. Over 80,000 Namibians were killed as German forces established their rule and evicted those in the way. Black Namibians now lived mainly in the north, but rural poverty increasingly forced them south to work — ensuring a labour supply for the new enterprises.

As a result, Namibia today ranks among the ten richest African countries if the total value of annual production (GDP) is divided by the number of people. In practice, however, by far the largest share of this wealth — about three-fifths — goes straight to company profits or South African taxes on profit. Little is left for the majority of the people: the average income of black Namibians is no more than that of Tanzanians — though Namibia's annual production per head is six times that of Tanzania. Furthermore, blacks are almost entirely excluded from skilled or managerial posts (except as primary school teachers or nurses); there are only 5,000 Africans in the whole country who have completed secondary school.

The economy is extra-ordinarily oriented towards South Africa and the outside world. 90% of goods produced are exported. There is very little processing before export — even cattle are exported live. Manufacturing is tiny. 80% of goods consumed, including half the food, is imported. No other country exhibits such extremes.



*Diamond workings at Oranjemund*

## Mining

Mining is the largest sector, contributing over a third of GDP. Most mines are owned by multinational corporations, including Amax and Newmont (USA), Falconbridge (Canada), RTZ, Consolidated Goldfields and Charter Consolidated (UK), as well as South African private and state corporations. Namibia's Consolidated Diamond Mines (CDM), owned by the South African multinational De Beers, produces about a sixth of the world's annual supply of gem diamonds, and until recently the bulk of Namibia's mining income. CDM is extremely profitable — the selling price of a diamond is about four times the cost of its production.

Establishment of new mines has been illegal under international law since the UN revoked South Africa's mandate over Namibia in 1966. A major challenge to this has come from the development of the world's largest uranium oxide complex at Rössing, which reached full production in 1979. The majority equity holder is the British multinational RTZ; the British Central Electricity Generating Board has contracted to buy uranium oxide; West Germany, France, the Netherlands, Switzerland, Japan and the USSR are also implicated. SWAPO strongly opposes the current illegal arrangements, but has indicated its willingness to sell uranium to commercial users at an economic price after independence.

The present administration prides itself on the attractive terms offered to foreign mining companies, including low taxes and no obligation to process minerals locally, to plough back profits into the country, or to recruit Namibians for management posts. Such policies reinforce underdevelopment by limiting the growth of local industries, preventing the creation of a body of skilled Namibian technicians and managers, and reducing the tax from minerals which the government could then spend on wider development projects or social services.

## Agriculture

Namibia has a hostile environment — 50% desert, and only 2% of the land suitable for crops. Incoming white settlers established huge ranches (over 50 km<sup>2</sup>) producing beef and karakul wool for export. They remain dependent on state support, complex technology and low wages. ►

By contrast African agriculture has been neglected in the interests of creating a flow of labour out of the overcrowded 'reserves'. Crop yields are among the lowest in the world, reflecting poor services and markets and the absence of family members on migrant labour contracts. Very few families can subsist without money sent back from migrants. Meanwhile food has to be imported.

### Fishing

During the 1970s the rich fishing off the coast of Namibia was exhausted as a result of overfishing by South African companies: further offshore much the same was being done by fleets from other countries. At its height the operation, based on Walvis Bay, supported eight processing plants and had an annual income of over US\$ 120m. Warnings from scientists about the effects on fish stocks of such a high rate of fishing were ignored, and by 1980 catches had fallen to one-seventh of their 1968 volume. One of Namibia's long-term assets was thus destroyed with no benefit to the Namibian people.

The processing plants at Walvis Bay are now closed and the operation has been transferred to Chile, where restrictions on catches and on the repatriation of profits are not unduly severe.

### Labour

About 110,000 Namibian workers are migrants, most of them on 12- to 18-month contracts living in spartan and overcrowded compounds separated from their families. The system allows low wages, since families supplement the wage by agriculture. These low wages were essential for the early growth of the mines and ranches. However, particularly since the massive strike of Ovambo migrant workers in 1971, migrants have been active politically and constitute the backbone of the liberation movement. There is now a split amongst the dominant white groups: mining companies are prepared to see higher wages



and an end to migrant labour, since the wage bill is a small proportion of their costs and they have an interest in a settled, skilled labour force; ranchers, on the other hand, would be hard hit if they had to increase wages, and they constitute the main support for AKTUR, the diehard right wing party.

Legislation has been passed to permit trade unions, but no unions with strong shop floor organisation have in practice been allowed for blacks. Attempts to establish a National Union of Namibian Workers (NUNW), supported by SWAPO, since the mid-1970s are strongly opposed by the state, and union leaders are often detained. However, as might be expected from mines' changed attitude to migrant labour, the CDM mine has permitted a workers' committee which management believe to be associated with NUNW.

There is an extreme shortage of high level manpower, with a heavy dependence on South African whites. ■

## The Future

The present economic system is likely to continue if South Africa can repress widespread opposition to its rule, and in particular the guerrilla war mounted by the South West African People's Organisation (SWAPO). If, on the other hand, the United Nations succeeded in its objective of holding free and fair elections, nearly all sources are agreed that SWAPO would win power. SWAPO statements indicate that a SWAPO government would attempt to transform the economy. There would be a redistribution of land to reduce inequalities of ownership and raise rural income. The contract labour system would be ended to allow families to live together. Basic social services would be introduced for all. A central aim would be to create a more integrated economy, with increased food production, more export processing and the establishment of industry. SWAPO would reduce the country's dependence on South Africa, replacing this with links with neighbouring states and a wide range of foreign countries. There would be a major state role in large-scale enterprises. In view of the acute

shortage of trained Namibians, the success of these programmes would depend on a continued supply of skills and technology from overseas. This is also likely to reduce the speed at which SWAPO can realise its long-term aim of establishing a socialist system. SWAPO has, in fact, stressed that every attempt would be made to retain skilled white personnel after independence, and that multinational companies would be acceptable providing they operate within the guidelines of national policies. All major mines would be kept operating, as an essential source of revenue, using a combination of management contracts and joint ventures with multinationals; there is every indication that, as in neighbouring Botswana, this would be acceptable to the companies. (Exceptions will arise with mines opened after the 1966 revocation of the UN Mandate).

SWAPO has devoted considerable effort to the education of refugees. By 1981 over 3000 students were in SWAPO-organised secondary education outside the country — as many as the number in equivalent classes inside; the 500 students in post-secondary training organised by SWAPO were significantly more than those inside. ■

Before we go into the research area itself I would like to make a few comments..

(a) It was difficult to get much information from the churches, themselves, because

- 1) Perhaps they don't have all the information themselves
- 2) They don't want to give the information.
- 3) They did not get authority from church leaders themselves to reveal this information.

(b) Because of the time factor I was not able to make use of primary sources, but secondary sources.

### INTRODUCTION:

The history of land in Southern Africa is equal to a history of dispossession.

Something both African and Non Africans understood for the last 3 centuries is "To be without land is not to be!" Talking about land history, we talk about daylight robbery whether intentionally or unintentionally.

One factor we need to take particular note of this issue was that the drama which took place within Southern Africa, took place between

- (a) Pre-Capitalist Society: In this I am referring to the indigenous people of African and
- (b) Capitalist Society: Here I am referring to the foreigners the European people who came to settle in Africa.

Take note that these European communities were not invited to Africa by the Africans. Therefore it can be true to say that most of the relationship between African and European, was an unnatural forced relationship. They were therefore on the continent illegally, therefore even to this present day they are trying to legalise their presence.

We need to take note that most of the people who came to South Africa, were not of the cream of European society. We can safely say that some of them was extremely undesirable.

- (a) Sailors were not the most refined people.
- (b) People who were not able to make it in European society.
- (c) Fortune Hunters.
- (d) And also uneducated and uncultured people.



"Die Europeers wat na 'Dese Afrikaanse Uithoek' gekom het, hier gebly het of net hier aangedoen het, slegs by uitsondering geletterd en opgevoed was" (Dr Joubert Dian Tafelberg Publishers 1974: Cape Town and Johannesburg: page 15)

These people therefore did not respect the social structures society, social hierachy of the African Society which they were to invade.

e) These people had more sophisticated modern and effective weapons even though the indigenous people had more strength in terms of numbers.

f) The Native Africans tried to treat them as neighbours as they treated their other neighbours. eg. The Xhosa if they did not want to be hostile with another tribe, allowed their women from the royal house to marry from the royal house of ther other tribe. And if they conquered other lesser or smaller tribes, those tribes became Xhosa, with all the right's a Xhosa person had within the tribe. This was not-how whites viewed or wanted to view black society.

They did not want to become part of the society but wanted to rule and dominate the people of this land.

ie may be quite right in say those Europeans whe came here were  
(a) Power hungry  
(b) Land hungry and  
(c) Had a hunger to live as the ruling classes of Europe at that time.

#### PRESENT LAND SITUATION:

We know that at present black people are treated and believed to be foreighners in the land of their birth.

Black people are not allowed to own land in any part of "white" South Africa. Even in the black townships creates by the Apartheid regime black people are not allowed to own land. The closest they can come to owning land is the 99 year lease system- this particular syssem is the governments corming to terms that whatever they do black people are here to stay in South Africa even in the "socalled white" South Africa.

The only place where black people may be able to buy land is in the Home lands. In some 'Independent States', there is the freemarket system on land. The land market is therefore open to all.(including white people.) It is then quite logical to conclude that in the final analysis black people will own even less then the 13% of South Africa which was set aside for her by 'white' South Africa.

#### PRE-1913 NATIVES LAND ACT:

The questions we need to ask now is, "how did we get to where we are at this point in time?" 'how is it that 'white governments' had the authority to inaugurate such laws as the 1913 and 1936 land acts ?' What is the process that led up to these events ?"

Below we will be looking at some of events that led up to 1913.

- (a) THE FREE STATE.
- (b) ZULU LAND -NATAL.
- (c) XHOSALAND.

You will find that all the information that will follow will create more and more questions in your mind eg. How did the Colonialists actually taken the land from the indegeounes people, before Natal was Natal.

### THE FREE STATE -PRE-.1913

This will be a general outline of the pre-1913 events. During 1833 the Baralong people (Stwana group) arrived in Thaba'Nchu. (Black Mountain). They were led by treir chief, Moroka. At his arrival he was accompanied by some missionaries. At their arrival in Thaba'Nchu-there was already people living in the area,the Basuthu people,because the Basuthu under the leadership of Mosheshe were small in number,they tye were easily defeated and driven to the land beyond the mountain,present day Lesotho.

Chief Moroka had two sons,Samual and Sipinary. After the death of Chief Moroka,friction grew between the two sons, because they both claimed that the land belonged to them,respectively Sipinary was defeated and killed by his brother. Sameul did not like the Boers,he was chased away by the Boers, (Iwas not able to from my informants how this happened.)He,Samual fled to Lesotho,where he lived as a refugee.

The Boers took Sipinary's son and installed him as Chief. It is believed by the Stwana people that this was the beginnings of all the wrong. The new chief was advised by the missionaries to devide his land into farms.This the chief did promptly and gave farms to whoever he wished to. Most of the farms he gave to his people but he also gave some farms to the missionaries and some to a few Boers.(Please note that the farms which was given to the missionaries was given for mission purposes only.

After this event the banks in the Freestate brought it to the knowledgde of the farmers that they will be able to borrow money from the banks,but this could only be done if the farmers bonded their farms.(The banks were in the hands of whites) This system was brought to a people who was not sofisticated from the Western perspective. Many Native farmers flocked to the banks to take out loans and in the process bonding their land

Dr. Moroka one of the Grandsons of Chief Moroka said

" The Africans did not understand this complex loan system, they thought the fact of their owning land allowed them to get money from the bank."

It is quite significant to note that at the same time the Boers opened bottle stores in Thaba'Nchu-" The farmers sold their cattle to buy the white man 's wine."

Later it became impossible for the farmers to pay their monthly instalment to the banks(instalment on the loans). Being unable to pay off their loans,they had to sell their farms for next to

nothing to be able to pay the banks.

We can see then that the farms were actually 'bought' by the Boers.

One other way that way land was taken from the black people in the Freestate was the changing of the borders of Thaba'Nchu (Thaba'Nchu becoming smaller and the Freestate bigger.)

This was happening until quite recently, 1974 as a matter of fact.

Mrs Blanche Tsimatsima, owned a farm of more than 2000 morgen up till 1974. This farm was in her family for a few generations. It belonged to the family since the land was divided by chief Moroka. She did not want to sell the land, proof of this can be seen as she was still in the process to build herself a bigger and more comfortable farmhouse.

The government wanted to buy the farm at R48 per morgen, but she refused to sell it at such a low price. She later sold it to a neighbouring farmer for double the amount the government offered.

From the information given by her it seemed obvious that she had no say in the matter about how this deal was going to be clinched.

It may be worthwhile to take note that this group of people have never been concurred by any army.

99 yrs. later is it owning of land or houses?

# PREVENTATIVE DETENTION

## Tool of Repression



At the time of going to press in September 1984, there are preventive detention orders in effect against the following people:

	Abel Dube	Matthew Goniwe
	Mbulelo Goniwe	Fort Calata
	Patrick Mosiuoa Lekota	Archie Gumede
	Mewe Ramgobin	George Sewpersadh
	M J Naidoo	Billy Nair
	Essop Jassat	Aubrey Mokoene
Release 24.09.27	Curtis Nkondo	R A M Saloojee
	Peter Jones	Muntu Myeza
	Haroon Patel	Sam Kikine
Release 24.09.27	Kadir Hassim	Jerry Thlopane 34.09.27 Release
	Andries Mapetla	Moss Chikane "
	Saths Cooper	Madoda Jacob

For most of them this is not their first experience of detention.

Few people understand the iniquity of the Preventive Detention provisions of the Internal Security Act. This booklet seeks to explain what the law says about this and other aspects of repression, and the implications.

Published by DPSC, DESCOM, JODAC, Anti-P.C., T.I.C., HAP and Black Sash, 42 de Villiers Street, Johannesburg.

Printed by Westro Reproductions, 45 1st Avenue West, Parkhurst, Johannesburg.

## PREVENTIVE DETENTION IN SOUTH AFRICA

During August 1984 government forces swooped on leaders of the U.D.F., on leaders of organisations affiliated to the U.D.F., and on leaders of Azapo, and took them all into Preventive Detention in terms of Section 28 of the Internal Security Act.

Section 28 is one of four sections in the Act which gives the authorities the power to arrest and detain a person without going through the Courts, and to by-pass the normal processes of law.

Preventive Detention can last for an indefinite period and has no other purpose but to remove a person from society, to prevent him from doing something which the Minister thinks he might be going to do.

No-one has any protection against being detained in this way.

- In March 1984, four Cradock community leaders were detained under Section 28.
- In August 1984, eighteen leaders of the protest against the elections for the tricameral parliament were detained under Section 28.
- Abel Dube has been in detention since 21 April 1982. Since 13 November 1982, his detention has been in terms of Section 28.
- By 11 September 1984, twenty six people had been acted against in terms of Section 28 under the much more severe conditions imposed by the 1982 "reformed" Internal Security Act.

Two of them, David Tobela, who was detained from 27 April 1982 to 10 August 1983, and Mordicae Tatsa, who was detained from 22 March 1982 to 10 August 1983, are no longer in detention. Mr Tobela was actually detained on 30 January 1981 but was put into preventive detention in April 1982.

Neither of them can be quoted. Mr Tatsa is also prohibited from attending any gatherings. He is a banned person.

As some day it may happen that a victim  
must be found  
we've got a little list, we've got a  
little list  
of society offenders who might well be  
underground  
and who never would be missed  
who never would be missed.

The Mikado: Gilbert & Sullivan

## THE LIST

- Anyone who has ever been detained in terms of Section 28 is automatically "listed" and may thus be effectively silenced for the rest of his life because he may never be quoted nor may anything he says be published or disseminated unless the Minister can be persuaded that his name should be removed from the list.
- Anyone who records or reproduces by mechanical or other means, or prints, publishes or disseminates any speech, utterance, writing or statement (or any extract) by a listed person can be sentenced to three years imprisonment without the option of a fine.

## SECTION 28

SHORT DESCRIPTION:	'Detention of certain persons in a prison in order to prevent commission of certain offences or endangering security of state or of maintenance of law and order.'
DETAINING AUTHORITY:	Minister of Law and Order.
GROUND:	(a) If in the Minister's <b>opinion</b> 'there is reason to apprehend that the person <b>will</b> commit' a security offence.
	(b) 'If he is <b>satisfied</b> that the person engages in', promotes, or is likely to promote activities endangering State security of maintenance of law and order.
	(c) If he has <b>reason to suspect</b> that a person previously convicted of a security offence, engages or is likely to engage in activities as in (b).
POWERS OF DETENTION:	The Minister on any of the above grounds may direct that any person be detained <b>in a prison</b> .
DETENTION ORDER:	By means of a <b>written notice</b> , signed by the Minister, and addressed to the member of the Prisons Service who is in charge of the prison specified.  A copy of this notice tendered by a police officer to the person concerned serves as a warrant for his arrest (although the officer can also act on a telegram from the Minister, or the knowledge that the notice exists).  The notice delivered to the person concerned must also be accompanied by a <b>written statement</b> from the Minister 'setting forth the reasons for the detention ... and as much of the information which induced the Minister to issue the notice ... as can, in the opinion of the Minister, be disclosed without detriment to the public interest.'

On Friday 7 September, the Natal Supreme Court declared the detention orders served on detainees in Natal to be invalid because the Minister had not provided them with sufficient reasons for the action against them. The Natal seven were released.

New detention orders were issued immediately and were served on the detainees being held in prison in Johannesburg. Police sought the Natal seven in order to redetain them.

In the new order the Minister added on **one** sentence: "No other information can, in my opinion, be disclosed without detriment to the public interest and the maintenance of law and order."

On September 10, the Transvaal Supreme Court turned down an application for the release of the detainees.

The Judge found that the additional sentence rendered the detentions valid.

CONDITIONS OF DETENTION: 'in accordance with the provisions of regulations made by the Minister of Justice.'

PERIOD OF DETENTION: 'for the period during which the **notice** is in force', i.e. the detention period is stipulated on the Minister's notice.

In the case of the four Cradock community leaders detained in March 1984, the period stipulated was 12 months from 31/3/84 to 30/3/85. For the 18 recent detainees, a six month period was stipulated, ending on 28/2/85.

There is nothing to prevent a new notice being served at the end of the period as has happened in the case of ABEL DUBE. He was originally detained on 21/4/82, placed under Section 28 on 13/11/82 for the period of 12 months, which was then renewed for a further 12 months expiring on 31/10/84.

The Minister may also withdraw the detention notice at any time.

**Thus the length of detention is totally at the whim of the Minister of Law and Order.**

RIGHT OF APPEAL: The detainee may, within 14 days of receiving his detention notice, make 'representations in writing to the Minister, relating to his detention or release', and submit 'any other information relating to the circumstances of his case.'

ACCESS TO DETAINEE: **No person may have access to the detainee or to official information relating to the detainee, except the following:  
The Minister of Law and Order  
The Director of Security Legislation**



**A judge of the Supreme Court  
Chairman of a board of review  
Any official in the service of the State**

However other persons may have access to the detainee 'with the consent of and subject to such conditions as may be determined by the Minister or the Commissioner of Police.'

In addition, a **non-listed** lawyer may have access to the detainee within the first 14 days for the sole purpose of assisting him in making representations.

### **REVIEW BOARD**

#### **Review of the Minister's Action**

A board of review constituted under the Internal Security Act is supposed to investigate and consider the action of the Minister in detaining a person under Section 28, in the following manner:

The Minister must submit to the board 'as soon as possible after the expiration of the period of fourteen days' the following documents:

A copy of the detention notice

A written statement giving the reasons and all information which induced him to issue the notice

Additional relevant information which came to his knowledge after issuing the notice

Copy of any written representation submitted by the detainee to the Minister

Any relevant additional information the Minister deems necessary

The board of review may then, in its discretion, hear oral evidence from any person including the detainee.

After consideration, the board must then furnish the Minister with a written report on its findings, stating whether it is of the opinion that the detention notice should stand or should be amended or withdrawn. The Minister must notify the detainee as soon as possible of the board's findings and recommendations, if any. **However, the Minister need not give effect to any recommendation.** If he refuses to do this, then within 14 days he must submit to the Chief Justice of South Africa copies of all documents previously submitted to the board of review, together with the board's report and any further report he may deem necessary. After consideration of these documents, the Chief Justice must then either endorse the Minister's actions, or he may set them aside if he is satisfied that the Minister 'exceeded his powers under the Act, acted in bad faith, or based his decision on considerations other than those contemplated in section 28.'

#### **PERIODICAL REVIEW**

Six months after the detainee was notified of the review board's ruling on his detention, he may request the Minister in writing to submit his case to the board of review specifying any changed circumstances or new facts considered as justification for the withdrawal of the detention notice. The procedure outlined above is then repeated, but with the appropriate documents.

The detainee may repeat his request at intervals of not less than six months.

The Minister may himself submit the case of any section 28 detainee to the board of review at any time.

## CONSEQUENCES

### **Consolidated List:**

The Director of Security Legislation is required to maintain a **consolidated** list on which he must enter the names of persons (amongst others) who **are** or **have been** detained under Section 28. He must also notify such persons **in writing** that their names have been so entered. The Act does not stipulate how soon the Director must do this. The Minister of Law and Order may '**on good cause shown**' instruct the Director to remove any name from the list. Such removals must each be published in the Government Gazette, but the consolidated list itself need only be published once every three years.

### **Restrictions on listed persons:**

- The Minister may by written notice prohibit any listed person from becoming, or continuing to be a member or office-bearer of any organisation or public body specified in the notice, or from taking any part in its activities. Alternatively, the notice may impose certain restrictions in regard to such membership.
- The Minister may serve a banning order on any listed person; this may involve various prohibitions such as not absenting oneself from a specified area or from a specified place during specified hours, not entering specified places, not communicating with specified persons, not attending gatherings and not receiving specified visitors.
- A listed person is disqualified from standing for election in the House of Assembly or a provincial council.
- A listed person is disqualified from being admitted by the court of any division of the Supreme Court to practise as a lawyer. Any listed person already practising shall be struck off the roll, on application made by the Director-General: Justice.

Five of the seven people detained in Durban on 21 August are lawyers.

- A listed person who fails to notify the police of a change of residence or employment is liable to imprisonment for up to 10 years.
- Any person who quotes a listed person, regardless of where or when the statement, speech or utterance was made, is liable to imprisonment for up to three years.

**The other three sections of the Internal Security Act which allow the authorities to detain people without going through the courts are:**

**Section 50** under which any police officer of the rank of warrant officer and up, can detain a person for 48 hours. This can be extended to 14 days on application to a magistrate. The purpose of this Section is described as 'action to combat state of unrest'.

**Section 29** under which any police officer of the rank of lieutenant-colonel and up, can order the detention of a person for an indefinite period for the 'purposes of interrogation'.

**Section 31** under which the Attorney-General can order the detention of a person to hold him or her as a potential state-witness in a trial. The period is until the trial ends, or for six months if the trial has not yet started.

As at 31 August, 572 people had been detained during the first 8 months of 1984.

119 people were known to have been detained during the month of August.

122 people were known to be still in detention at the end of the month.\*

It is not known how many others may be in detention. There is no obligation on the security police to release such information and they have considerable powers to prevent publications of facts about detentions and detainees.

Section 50 has been used extensively against people who are active in opposition to the new Constitution. It enables low-key repression through detention to take place unhampered. By clever timing, the 48 hours can be extended over a weekend. If the 48 hours does not expire before 4 pm on Friday, the detainee can be held until Monday.

Section 29 is the notorious provision which allows the State to hold people for an indefinite period, isolated from all contact with the outside world and at the mercy of their interrogators.

Reports of torture through solitary confinement and brutal physical and mental assault have been extensively documented.

Some people held in terms of Section 31 and Section 29 have subsequently been imprisoned for refusing to give evidence against the accused in political trials.

### **Bans on meetings**

In 1976 an emergency ban was placed on all **outdoor** gatherings throughout South Africa. This ban has been renewed regularly since then and has in fact been continuous.

A gathering is defined as "any gathering, concourse or procession of any number of persons" — that is, any gathering of more than one person.

In terms of Section 46 of the Internal Security Act, a magistrate may impose a ban on **indoor** gatherings in his district for specified periods of time.

Magistrates impose such bans very frequently.

The Minister may also impose a ban on indoor gatherings in the whole or part of the Republic.

At midnight on 11 September 1984 he imposed such a ban in 21 magisterial districts until 30 September.

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\* Figures include those in detention in the "independent" homelands.

The Minister classified the types of prohibited indoor meetings as follows:

“Any gathering held where any government or any policy principle, or any actions of the Government of any state, or the application or implementation of any Act is approved, defended, attacked, criticised or discussed, or which is in protest against or in support or in memoriam of anything.”

Only recognised political parties are exempt from these bans.

The penalty for convening or presiding over a prohibited meeting may be a fine of R2 000 or two years imprisonment.

The penalty for attending such a meeting may be a fine of R500 or six months imprisonment.

### **Other tools of repression**

The State's repressive powers which can be used to suppress dissent, extra-parliamentary opposition, protest and effective non-violent organisation against apartheid do not end here.

It has taken to itself other powers to ban organisations, to cut them off from financial resources, to prevent the proper and free reporting of police and military actions, to censor free speech.

It has no hesitation in using these powers.

### **1984 in South Africa**

Throughout 1984 in many different parts of the country, severe action has been taken against communities who are protesting rent increases, the establishment of Town and Village Councils, inadequate education, removals, homeland citizenship and the homelands policy, the new pass laws, and the new Constitution.

Much has gone unreported and the factual situation is not always easy to establish.

**What is clear is that amidst the widespread chaos and confusion, anger and alienation, there is explicitly expressed, total opposition to the policies of the minority government now in power.**

Banning meetings and publications, and detaining leaders is the surest way of causing confusion, rumours, violent outbreaks of arson and stone-throwing.

To remove leaders is the surest way of provoking unrest.

**The South African government has used repressive measures against its opponents for 25 years. It has not succeeded in silencing dissent.**

**It will not succeed in the future.**

**The ban on outdoor meetings has not succeeded in preventing people from gathering in the streets.**

**The ban on indoor gatherings does not and will not prevent people from attacking, criticising, discussing, or protesting actions of government or the laws which oppress them.**

**Preventive detention of some leaders will not prevent others from taking their place.**

**Why is the South African government NOW mustering all the forces of repression at its disposal?**

**Because** it is feeling threatened and insecure. There is no other explanation for its excessive and hysterical reaction to opposition to the new constitutional system.

The growth of the U.D.F. is a visible expression at national and regional levels of the determination of hundreds of local community organisations to resist their continued dispossession.

This **is** undoubtedly a threat to apartheid.

It is **not** a threat to South Africa.

It **is** one of the most hopeful signs on the political horizon for eventual resolution of the serious conflicts in our society.

To destroy the U.D.F. will **not** be to destroy the people's determination to be free.

To destroy the U.D.F. **will** be to destroy hope for relatively non-violent progress towards justice, democracy and peace.

The constitutional programme is in ruins.

The claim of "consensus" is denied by events.

The government is beginning to realise the essential weakness and vulnerability of the Apartheid system.

The governed are realising their strength.

The "outsiders" are inevitably moving in and there is no use in frantically trying to fortify the battlements against them.

**IT'S TIME TO START MOVING TOGETHER  
TOWARDS A NEW SOUTH AFRICA**



REPUBLIC OF SOUTH AFRICA

TO: THE MEMBER OF THE PRISONS  
SERVICE IN CHARGE OF THE  
NEW JOHANNESBURG PRISON  
JOHANNESBURG

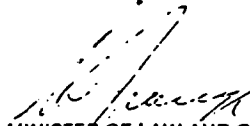
**NOTICE IN TERMS OF SECTION 28(1) OF THE INTERNAL SECURITY ACT, 1982 (ACT 74 OF 1982)**

I hereby in terms of section 28(1) of the Internal Security Act, 1982 direct that the person mentioned hereunder be detained in the ..... New Johannesburg .....  
prison until ..... 28 February 1985 .....

Name of person:


Address:

Given under my hand at Pretoria this 8<sup>th</sup>  
day of September 1984

  
MINISTER OF LAW AND ORDER

- Note:
- (1) The person to whom this notice relates (hereafter referred to as the detainee) shall be detained in accordance with the provisions of the regulations contained in the annexure hereto.
  - (2) The detainee may —
    - (i) within fourteen days as from the date on which a copy of this notice is delivered or tendered to him make representations in writing to the Minister regarding his detention or release and submit any other information relating to the circumstances of his case;
    - (ii) be assisted by a legal representative in the preparation of such documents;
    - (iii) in writing apply to the board of review to give oral evidence before the board;
    - (iv) after a period of six months as from the date on which he was notified of the outcome of an investigation by the board of review, request the Minister in writing to submit his case to the board of review for investigation and consideration and may in such request specify any change in the circumstances or of the facts pertaining to his case, which in his opinion may serve as justification for the amendment or withdrawal of the notice in force against him.
  - (3) The detainee may not receive any visitor except with the consent of and subject to such conditions as may be determined by the Minister or the Commissioner of the South African Police.

*Minister of Law and Order*  
*Claremont*

*Rm*  
  
*[Signature]*

81/172872  
(Z 28)

STATEMENT BY THE MINISTER OF LAW AND ORDER IN TERMS OF SECTION 28(3)(b)  
OF THE INTERNAL SECURITY ACT, 1982 (ACT 74 OF 1982)

- (a) REASONS FOR THE DETENTION OF \_\_\_\_\_ IN ACCORDANCE  
WITH A NOTICE ISSUED IN TERMS OF SECTION 28(1) OF THE INTERNAL  
SECURITY ACT, 1982

I am satisfied that the said \_\_\_\_\_ engages in  
activities which endanger the maintenance of law and order.

- (b) INFORMATION WHICH INDUCED ME TO ISSUE THE SAID NOTICE:

By acts and utterances the said \_\_\_\_\_ did himself and  
in collaboration with other persons attempt to create a  
revolutionary climate in the Republic of South Africa thereby  
causing a situation endangering the maintenance of law and order.

No other information can, in my opinion, be disclosed without  
detriment to the public interest.

*[Signature]*  
L LE GRANGE

MINISTER OF LAW AND ORDER

AQ7

"AQ7"

REMEMBER \* MARCH 21

**FORWARD**

WITH

THE

**PEOPLE'S STRUGGLE!**





AQ 8

CONVICTED A YOUNG  
CALLANT, BRAVE & DEDICATED  
HERO COMRADE

"A.C.s"



BECAUSE HE STOOD  
FIRM FOR HIS PEOPLE