



Who Are The Real Terrorists?: A document on the SASO/BPC trail

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NOTES AND DOCUMENTS*

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March 1977

WHO ARE THE REAL TERRORISTS?

A document on the SASO/BPC** trial

by

University Exchange Fund (IUEF)

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Introduction

During the week ending Friday, 24 December 1976, white South Africa was celebrating the festive season, while black South Africa observed a period of mourning for those who had died in confrontations with the South African police since 16 June. Also during that week, in the "Palace of Justice" in Pretoria, Mr. Justice Boshoff passed sentence on those convicted in SASO/BEC terrorism trial. The nine convicted were Sathasivan Cooper, i4osioua Lekota, Haitshé Mokoape, Lindane iyeza, Pandelani Nefolovhodwe, Nkwenke Nkomo, Zitulele Cindi, Strinivasa Iloodley and !§bc° ne Sedibe. Sathasivan Cooper, iosioua Lekota, ilaitshe lokoape, Lindane iiyeza, Pandelani Nefolovhodwe and Nkwenke Nkomo were each sentenced to six years' imprisonment after being found guilty on two counts under the Terrorism Act. These counts were firstly, "conspiring with intent to endanger the maintenance of law and order", and secondly, the organization of the "Viva FRELINO" rallies in 1974 "with intent to encourage racial hostility." The six men were sentenced to five years' imprisonment on each count but the judge ruled that four years of the sentence on the second count should run concurrently with the five year sentence on the first count. Zitulele Cindi and Strinivasa iloodley were sentenced to five years' imprisonment each on the conspiracy count and Kaborane Sedibe was sentenced to five years' imprisonment on the racial hostility count.

This was South Africa's longest trial to date under the Terrorism Act and comprised 136 court days, 61 State witnesses, 21 defence witnesses, and the 260-page judgement resulted from 9,000 pages of court reports, 1,000 pages of documentary evidence and 800 pages of defence and State argument. On 31

January 1975 the nine with three others, Rubin Hare, Solly Ismail and Sadecque Variava, were first charged in court for participating in "terroristic activities." Sivalinghem Iodley became the thirteenth accused in the case when he was also charged and ordered to appear in the trial with the others from 11 February. All of the accused were kept in detention before appearing in court and ten of them were in detention under Section 6 of the Terrorism Act for periods ranging from 85 to 129 days before their first court appearance. All the accused were kept incommunicado for the period between their detention and the first court appearance. During this period they were interrogated and prevented from having access to lawyers, family, friends or their own doctors. They were also kept in detention through the trial period. Thus, most of the accused were held in prison for almost 16 months before being finally sentenced.

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In passing sentence, Mr. Justice Boshoff said:

"The conspiratorial agreement entered into by the men was basically a common enterprise between SASO and BPC, whose primary object was the liberation of the black people. This was to involve total change in the political, economic and social areas of South African society and total struggle which entailed total involvement of all blacks. One of the methods to be employed was conscientization which was to be directed at children, nurses, high school teachers, students, workers, Sunday School teachers and blacks at grass-roots level."

Who are these convicted "terrorists"?

The following are brief biographical sketches of the nine convicted.

Zitulele Cindi:

He is 25 years old, was Secretary General of BPC when arrested.

Sathasivan Cooper:

He is 24 years old, married and was banned under Section 9 (1) and 10(1a) of the Suppression of Communism Act in March 1973. Expelled from University of Durban, he was public relations officer for the South African Black Theatre Union (SABTU), Associate Editor of Black Gold Publications, organizer for Black Art Studios (BAS), member of TECOI, a black drama group, and public relations officer for BPC at the time of his banning.

Ilosioua Lekota:

He is 28 years old, an active member of SASO at the University of the Port, Durban. Elected permanent organizer of SASO in 1973, which post he held up to the time of his detention.

Iaitshe Iokoape:

He is 29 years old, married with two daughters and is a doctor.
Founder-member of BPC and SASO and was banned under Section 9(1)
of the Suppression of Communism Act.

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Strinivasa jKr ft y:

He is 28, married with one child and his wife is also banned.
He is banned under Section 9(1) and 10(1a) of the Suppression
of Communism Act. Expelled from the University of Durban.
Publications Director and Editor of the SASO Newsletter in
1971 and 1972. Founder-member, director and producer for
TECON. In July 1972, was elected Director of SABTU. In February 1974 was
charged on five counts of contravening
his banning order and found guilty on two counts. Sentence
was suspended conditionally for a year.

Lindane Mvyeza:

He is 27 years old. Secretary General of SASO at the time of his arrest. President
of SASO in 1973 and was
studying for a BA degree.

Pandelani Nefolovhodwe:

He is 25 years old. President of SASO when arrested.
Fina year BSc student at the University of the North,
Turfloop.

Nkenke N\komo:

He is 24 years old. Member of the Benoni BPC branch in
Daveyton. National organizer of BPC when arrested.

Kaborane Sedibe:

He is 25 years old. Former President of the Studentsy Representative Council
(SRC) at the University of the
North, Turfloop.

What is the law concerning these "acts of terrorism"?

The Terrorism Act (No. 83 of 1967) establishes the offence of participation in
"terrorist activities", such activities being very broadly defined. Furthermore, if an
accused is found guilty of having crjLtbrd any act included in the list, the onus is
on him to prove that his intention was not to commit terrorism. If the court
convicts him of -- rticipation in terrorist a.ctivitlies, the miniumn sentence
imposed is five ye rs' imprisonment, and may in fact be death.

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The infamous Section 6 of the Terrorism Act allows any officer of the police of
the rank of lieutenant-colonel or above to order the arrest without warrant and the
detention for interrogation of any person whom he has r,.ason to believe is a
terrorist or is withholding information relating to terrorists or to offences under
the Act. A person so detained will be held, subject to such conditions as the
Commissioner of Police or the iinister of Justice may determine, until the
Commissioner is satisfied that he has replied adequately to all questions asked at

his interrogation, or that no useful purpose will be served by his further detention, or until the Minister orders his release.

The Act also provides that no court of law may pronounce upon the validity of any action taken under the provisions relating to detention, or order the release of any detainee. No one shall have access to a detained person or be entitled to information about him except the Minister or an officer of the State acting in his official capacity. If circumstances so permit, the detainee will be visited in private by a magistrate at least once a fortnight.

The detailed charge sheet presented at the trial of the accused comprised 105 pages, of which 11 were the charge sheet proper, the remainder consisting of two schedules and 11 appendices as supporting evidence. The appendices consisted of articles, SASO conference resolutions, pamphlets, BPC information brochures, two plays and a derisive song entitled "What a World We Have in Vorster." The common element in all these documents was a clear avowal of black consciousness.

In the charge sheet the accused were charged with participating in "terroristic activities" under the terms of various sections of the Terrorism Act and of the General Laws Amendment Act (No. 5 of 1955). On the main count the charge was that between 1 December 1960 and 31 October 1974, the accused, "at all relevant times members and/or active supporters" of SASO, BPC, the Peoples' Experimental Theatre (PET), the Theatre Council of Natal (TECOTT) and/or the SRC of the University of the North, did wrongly and unlawfully and with intent to endanger the maintenance of law and order conspire to commit one or more of the following acts, to wit:

1) to transform the State by unconstitutional, revolutionary and/or violent means;

2) to condition the Bantu, Indian and Coloured population groups of the Republic (hereinafter referred to as the blacks) for violent revolution;

3) to create and foster feelings of racial hatred, hostility and antipathy by the blacks towards the white population group of the Republic (hereinafter referred to as the whites) and/or the State;

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4) to denigrate the whites and to represent them as inhuman oppressors of the blacks, and to induce, persuade and pressure the blacks to totally reject the white man and his way of life, and to defy him;

5) to inspire and encourage emulation of persons who have been convicted in the Republic of the crimes of terrorism, subversion, sabotage and offences under the Suppression of Communism Act (No.44 of 1950);

6) to portray historical events in such a way as to cause, encourage or further feelings of hostility, resentment or hatred by the blacks towards the whites;

- 7) to make, produce, publish or distribute subversive and anti-white utterances, writings, plays and/or dramas;
- 8) to organize and hold subversive anti-white rallies and/or gatherings;
- 9) to discourage, hamper, deter or prevent foreign investments in the economy of the Republic, and to call upon foreign investors to disengage themselves from the same economy;
- 10) to discourage, hamper and/or deter foreign organizations and/or Governments from recognizing and/or co-operating with the Republic.

The ;ernative charges related to the compiling, disseminating, reading, reciting, etc. of "inflammatory, anti-white, racialistic and/or subversive material", and the proposing, supporting, etc. of motions, plays or dramas with the same aim. In addition, accusations of incitement to resorting to armed struggle against the State, organizing "so-called pro-FRELIIO rallies", and "propagating anti-white and anti-State feelings" were made. Further alternative charges were that the accused did "advertize, make known or suggest the efficacy of an armed struggle to transform the State and/or to bring about political, social, industrial and/or economic change." The final alternative charge referred to Sathasivan Cooper alone, and alleged that he participated in terroristic activities by endangering the maintenance of law and order in that he was a member of the BPC Executive Committee, another of whose members was alleged to have written or caused to be written letters to various companies which attempted to discourage, hamper, deter and/or prevent foreign investment in the economy of the Republic.

On 13 August 1975, six and a half months after - ' first appearance in court, the accused were asked to plead. All of them except Zitulele Cindi pleaded not guilty. Cindi stated:

"We are charged with plotting violent revolution but it is we who have been the victims of institutionalized violence. If building schools and dams throughout the country, and trying to install a feeling of self-reliance among black people is terrorism, then I must plead guilty, but I do not believe it is terrorism".

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What were the events that led to these charges?

After the ruthless crushing of black political organizations during the 1950's and early 1960's by the South African Government, there was a period of time during which black political aspirations were not publicly articulated. However, the late 1960's and early 1970's saw the rise of the Black Consciousness Movement in South Africa. The major protagonists of this movement were organizations such as South African Students' Organization (SASO), Black People's Convention (BPC) and Black Community Programmes (BCP), as well as other black cultural organizations. This Black Consciousness Movement once again expressed publicly the aspirations of black South Africa, and, of course, these aspirations were in severe conflict with the apartheid policies of the South African Government.

The South African Government soon showed its hostility towards the emergent Black Consciousness Movement and leaders of the movement were banned, placed under house arrest and jailed. In addition, the South African Government charged many members of the Black Consciousness Organization with political offences and convicted some of them in court, although in most cases their efforts to convict were unsuccessful. As a result of these acts of repression, many members of the Black Consciousness Movement were forced into exile. By September 1974, however, far from crushing the Black Consciousness Movement, the South African Government found that the Movement was more powerful and articulate than ever. For the first time since the days of the mass black support for the African National Congress (ANC) and the Pan Africanist Congress of Azania (PAC), South African blacks were again solidly represented by their own political movement. This movement was in direct conflict with the South African Government's apartheid and tribal policies in that it attempted to present a united black front against white domination. For this reason, the Black Consciousness Movement had a keen interest in the liberation struggles of all people and more especially in the struggle being waged by the people of Angola, Mozambique and Zimbabwe. Therefore after the coup d'état in Portugal in 1974 the Black Consciousness Movement welcomed the changed situation of their fellow blacks in Angola and Mozambique. In Mozambique, FEPEL established themselves as the representatives of the people and, on 21 September 1974, formed the majority of the transitional government which would prepare Mozambique for complete independence in June 1975.

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A report on the "FRELIMO rally" issued by SASO declared:

"Thus, with the announcement of the FRELIMO takeover in Mozambique, SASO and BPC realized it was their duty to share in the joy of the FRELIMO victory. This was based on the fact that the struggle in this country and FRELIMO's struggle in Mozambique are clearly intertwined, for our purpose is the realization of a free and united Africa - the birthplace and mother country of the black peoples of the world."

During the weekend of 20 September 1974, SASO and BPC announced the date, venues and time of a series of rallies which were planned to take place in the main cities of South Africa. A rally planned for Durban, which was the one most publicized by the press, was scheduled for Wednesday, 25 September 1974, at 5:30 p.m. in Curries Fountain Stadium. This rally was well publicized and liaised for by SASO and BPC to join with FRELIMO in celebrating the well-earned freedom of Mozambique. It was planned to have SASO, BPC and other speakers to address the meeting.

As soon as the rallies were publicized, objections were received by the Minister of the Police, Mr. Jimmy Kruger, from certain whites. They claimed that the event would cause "racial hostility between the various race groups in the country." The reaction of the Government was immediate, and under the special powers held by

the South African Minister of Police all gatherings throughout South Africa organized by SASO or BPC were banned for the period between 24 September and 20 October 1974. This action was taken by the South African Government despite the fact that some white organizations had publicly demonstrated their support for the "Movement for Mozambique", which was essentially a white Mozambican organization opposed to FRELIMO.

On Wednesday, 25 September 1974, at about 5:30 p.m., more than 2,000 people were assembled outside Curries Fountain opposite the entrance to the stadium despite the banning of the rally. The atmosphere and the attitude of the crowd was one of expectancy and solidarity. The reason that the crowd did not enter the stadium was that a large police unit was present and had sealed off the entrance. Within half an hour the crowd present had grown to what was estimated between four and five thousand. This crowd seemed unimpressed by the police show of force and amongst other things sang the black national anthem "Nkosi Sikeleli Afrika", gave black power salutes and shouted slogans such as "Viva FRELIMO."

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At the same time at the University of the North, Turfloop, a similar meeting in solidarity with FRELIMO had been organized. The students who were in the students hall for the meeting were forced by a police unit to leave the hall and thereafter marched onto the playing fields singing and chanting slogans.

At both the Curries Fountain and Turfloop meetings the police moved in on the assembly. Those present were attacked by policemen armed with batons, assaulted with tear gas and savaged by police dogs. In Durban about 14 people were arrested and at least two were arrested at Turfloop. Many of the people present at the meetings were later arrested while at hospital being treated for wounds received from police dogs.

During the evening of Wednesday, 25 September 1974, the SASO offices were raided by the police. The police arrested SASO and BPC representatives and removed typewriters, duplicating machines, documents, papers and other materials. In addition, the police raided a number of homes where more persons were arrested. On Thursday, the 26th the police continued their purge and more arrests and raids took place. Some of the arrested were kept in detention while others were released on bail after having been charged under the Riotous Assemblies Act. By the weekend of 28 September 1974 all the regional offices of SASO and BPC had been raided by the police and more people had been arrested and more documents seized. Police raids continued and by 7 November 1974 at least 36 leaders of the Black Consciousness Movement had been arrested and detained under Section 6(1) of the Terrorism Act.

This assault by the South African Government on the Black Consciousness Movement was divided into two parts. Firstly, many persons were arrested and charged under the Riotous Assemblies Act for merely being present or, near the banned rallies. Far more serious, however, was the detention of the leadership of the Black Consciousness Movement. It was these detentions that culminated in the SASO/BPC terrorism trial. As stated earlier, this trial ended with nine of the

leaders of the Black Consciousness Movement being sentenced to five and six years' imprisonment each.

What happened during detention and the trial period?

On 22 October 1974, Mr. S. Chetty, an attorney who was acting for some of the detainees, had the opportunity to see Terence Sathis Cooper in connexion with an appeal against a charge of assault. Immediately after this visit Mr. Chetty attempted to bring an emergency interdict on the Minister of Police and the Commissioner of Police restraining the police from assaulting, interrogating in any manner other than described

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by law, employing any undue or unlawful pressure and subjecting the detainees to any form of unlawful duress. In addition, the application requested that someone who was so entitled in terms of Sub-Section 6 or 7 of Section 6 of the Terrorism Act and who was allowed by the court be allowed to take affidavits from the five detainees allegedly assaulted and that pending the filing of such affidavits an interim interdict be issued.

In giving his judgement on the above application, Mr. Justice Trengrove stated that even if the court "had the power to acquire a magistrate to take a statement, affidavit or evidence on commission from a detainee, the magistrate would not be entitled under Section 6 to disclose this to the court." On this basis he saw no reason to grant relief until such affidavits could be obtained from the detainees themselves.

After the original 13 accused had appeared in court and been charged, on 31 January 1975, ten other detainees were released from detention with no charges being brought against them. Six of these were later issued with banning orders. On 7 June 1975 application for bail for the 13 accused was refused by the Attorney General of the Transvaal. This was followed by an application for the quashing of all charges against the 13 on the grounds that the indictment was vague. On 23 June 1975 the State withdrew all charges against Sivalingham Moodley and Solly Ismail and they were released without having been charged. On 17 July 1975 indictment against the 11 accused was withdrawn and a new indictment was issued against the nine accused. The other two accused, Rubin Hare and Sadecque Variava, were issued with individual indictments.

On 7 August 1975 the nine accused dismissed their counsel and requested the presiding judge, Mr. Justice Boshoff, to withdraw from the case. The judge ruled that there was no justification for the claims of prejudice and bias and therefore refused to excuse himself. Upon this, the accused then re-engaged their counsel. On 13 August 1975, six and a half hours of the accused in court, they all pleaded not guilty except for Zitulele Cindi, who made the statement quoted previously.

The trial then continued and the State brought a number of witnesses, some of whom had been held in detention incommunicado for over seven months. One of these witnesses, Mr. Jonas Lebwaba, alleged that he had been forced by his interrogators to make certain statements in his written statement. On 12

September 1975, the defending advocates announced their intention of submitting that the nine accused and other detainees had been subjected to "a system of assaults and psychological pressure by the security police" during their detention and that therefore evidence elicited in terms of Section 6 of the Terrorism Act was valueless.

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The judge ruled, however, that the denials of assault made by the security police were to be accepted by the court and that there was no evidence of physical violence involved in police interrogations of detained State witnesses.

On 27 October 1975, the first anniversary of the detentions resulting from the Viva FRELIMO rallies of 1974, the accused presented the prosecutor with an "anniversary cake." This action was typical of the undaunted spirit of the accused and their supporters and families which was expressed throughout the trial.

On 7 November 1975 the State closed their case. The defence required cross-examination of Mr. Van der Merwe,

Dr. Rick Turner, a political science lecturer at the Rand Afrikaans University, who was called by the State to "interpret" the SASO and BPC documents before the court. The court was then adjourned to allow the defence to prepare this cross-examination. At that time, ten detainees, some of whom had been detained since the Viva FRELIMO rally more than a year before, were released.

Dr. Rick Turner, the banned former Natal University political science lecturer, was granted "special permission" to leave Durban to advise and assist the SASO defence team in their preparation of the cross-examination of Mr. Van der Merwe. In addition, Professor Ted Gurr, a world authority on conflict in society, arrived from the United States to assist the defence team.

On 24 November 1975 the cross-examination by the defence of State witness Van der Merwe commenced. The defence submitted that the SASO and BPC documents before the court expressed feelings indistinguishable from those expressed in speeches by various people, including Chief Gatsha Buthelezi, Mr. David Curry, deputy head of the Coloured Labour Party and extracts from the Coloured Representative Council and Transkei Legislative Assembly Hansard reports.

On 5 December 1975 a clash occurred between the accused and the police. This arose from police insistence on keeping the canvas blinds closed on the van which transported the accused daily from prison to court, despite the repeated requests by the accused to leave them open because of the intense heat of December. The police used dogs to force the accused into the police van and one of the accused, Tefiso Mokoape, was alleged to have bitten a policeman's finger. In addition, two of the accused, Mr. Mokoape and Dr. Mokoape, were later examined by a doctor. Pandelani Nefolohodwe later appeared in court charged with common assault arising from the incident and pleaded not guilty. He was, however, found guilty of biting a policeman and fined 100 Rand or 100 days. He was also sentenced to four months' imprisonment suspended for two years.

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On 12 December 1975 the State closed its case after 61 witnesses had been called and the court went into recess. The defence counsel gave notice that they planned to apply for the discharge of a number of counts against the accused and that this would be submitted on 21 January - upon the resumption of the court case. Subsequently, an application was made for the discharge of five of the accused on the grounds that unconstitutional political activity was not against the law and that the Terrorism Act was not designed to prevent all social, economic or political change, but only violent and forcible means of change. On 25 March 1976, Mr. Justice Boshoff refused the defence application for the total discharge of the five accused, but granted the discharge application for seven of the thirteen counts against the accused. Each of the accused therefore still faced at least one charge, the main charge being of conspiracy to bring about revolutionary change in South Africa by violent or unconstitutional means. In addition, seven of the accused still faced charges relating to the organization of FRELIO rallies, and Saths Cooper faced four charges relating to compiling and distribution of pamphlets and a newsletter. The charges which were withdrawn related to SASO and BPC meetings, speeches allegedly made, documents compiled or distributed.

On 29 March 1976 the defence opened their case and called Dr. Dick Turner as the first witness. Dr. Turner was followed by Dr. Ianas Buthelezi, Secretary General of the Evangelical Lutheran Church of South Africa.

The other main witness called by the defence was Mr. Saths Cooper, one of the accused and a former BPC office bearer who was banned in 1973. Throughout his evidence, Mr. Cooper clearly affirmed his beliefs and convictions and those of the BPC. He said that black consciousness, as understood by the DPC, was born of "genuine aspirations of the black masses and gave positive expression to these aspirations." He said that the BPC aimed at gaining the support of the majority of black South Africans in order to be able to bargain with whites from a position of strength - "the basic rule of politics." Furthermore, BPC rejected the involvement by foreign investors in the exploited economic system in South Africa and had attempted to bring pressure to bear on them to help change the system.

On 14 April 1976 Mr. Cooper gave evidence under cross-examination by the senior State counsel, Mr. Cecil Mee. This cross-examination was punctuated by clashes between the two. Mr. Cooper said that BPC's ultimate goal was the redistribution of wealth and the change of attitudes in South Africa and that he believed the prosecution had no case against him and his eight "brothers" in that he was on trial for holding beliefs generally held by all black South Africans. At 7; the trial was postponed for two weeks and upon its resumption on 28 April 1976 Mr. Justice Boshoff questioned Mr. Cooper at length about the BPC aims of "collective bargaining", which was aimed at achieving equality for blacks. The judge said, "As I see it, the whole trial turns on whether BPC used black consciousness to prepare the masses for violence." Mr. Cooper clearly stated that they had no plans to use violence to achieve their aims.

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The trial continued and was punctuated by submissions and adjournments for various reasons. The defence submitted that the accused were working for total change in the political, economic and social system of the Republic of South Africa but this was done via the Black Consciousness Movement as a normal legal political act. The defence said that the aim of the accused was to bargain for the rights of the blacks in the Republic from a position of strength, which was to be achieved via the Black Consciousness Movement. The State submitted that the accused were conspiring to bring about revolutionary change in the Republic via unconstitutional means and were thereby endangering the maintenance of law and order. In addition, the State argued that the specific organization of the "FRELIJO rallies" was designed to encourage racial hostility.

After the marathon trial was completed by the State and defence arguments, h r. Justice Boshoff adjourned the court to consider the judgement.

What were the reasons given for the final judgement?

The judgement delivered in the SASO/BPC trial by iir. Justice Boshoff is one of the most important ever delivered in South African legal history concerning what is and what is not legitimate legal activity in the Republic. This judgement has important implications, not only to groups such as SASO and the BPC, but to all political groups in the Republic who are politically active or who have views and opinions to express. The following quotes and summaries from hr. Justice BoshoffTs judgement are reprinted from the Johannesburg Star, 24 Decmeber 1976.

The democratic freedom of speech might best serve its high purpose when it induced a condition of unrest, created dissatisfaction, or even stirred people to anger

This was said by Mr. Justice Boshoff in his marathon judgement on the nine accused in the SASO trial in the Supreme Court, Pretoria, this week. In the case of the blacks, he said later, it had to be remembered that if they used language which might seem unnecessarily strong, they had no effective voice or vote in the authoritative allocation of values, and could c , "y protest against what might be regarded by them as grievances. But, he said, opinions or beliefs could be expressed only within the limits of the laws - not for instance in contravention of the Riotous Assemblies Act...

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TIn our country we have democratic regime nonrs, and freedom of speech and assembly play 1-1 important part in our party system, which is based on opposing views and consequent dispute of ideas ...

'iMetoric plays an important part and speech is often provocative and challenging.

'It might strike atprejudices and preconceptions and

a profound unsettling effect as it presses for acceptance of an idea ...

'While freedom of speech and assembly must be regarded as fundamental in our democratic society, it does not mean that everyone with opinions or beliefs to express may address a group at any public place and at any time.

'They may only do so within the limits of our laws for example, when a person expresses views which promote feelings of hostility between blacks and whites as racial groups, it is only an offence if it were done at a meeting prohibited under the Riotous Assemblies Act (No. 17 of 1956), or in contravention of the Bantu Administration Act (No. 38 of 1927), that is, with the intention of promoting racial hostility, or in contravention of the Terrorism Act (No. 83 of 1967), with the intention of endangering the maintenance of law and order.'

Justice Boshoff said that protest groups and revolutionary groups which were responsible for political violence 'certain common characteristics and certain distinguishing properties.

Their common characteristics were in respect of objectives, organization and tactics. Their objectives were to remedy grievances by changing the allocation of political power, material goods and/or status.

Revolutionary groups demanded the destruction of the existing political, economic and social systems and sometimes demanded the escape from the political system and increased autonomy for their own group.

'They organize secretly with clandestine meetings, their officers and members are secret and membership is restricted to tested loyalists.

'They plan for the seizure of power and usually make use of sabotage, terrorist attacks and armed actions.. They rarely make use of rallies, demonstrations and strikes.'

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The court was satisfied that neither SASO nor BPC had the characteristics of a revolutionary group.

It was not one of the objects of the -r.piratorial agreement to bring about a revolutionary change by unconstitutional or violent means or by the threat of such means.

The crucial questions which remained to be considered were whether the prosecution established that the common method and means resorted to were capable of endangering the maintenance of law and order, and that the agreement had been entered into with that intention.

'There is no direct evidence of the intention of the conspirators and this question must consequently be resolved on the circumstantial evidence. It will be considered in conjunction with the first-mentioned question,' said the judge. Relevant factors included the concern of the conspirators about the political situation in South Africa.

'They felt that grave injustices had been done to the blacks by the whites, the blacks being a numerical majority had an historical and natural right to rule the country, but that right had been usurped by the whites who really had no business to be here at all. The whites cling tenaciously to their political power and their privileged position and have proved themselves to be intransigent.'

There had been attempts, even violent attempts, by other organizations in the past to regain the alleged birthright of the blacks, but all had been failures.

The conspirators believed that these attempts had failed because the blacks had not been properly motivated.

'The conspirators realized that political action was necessary of the kind devised by SASO and BPC, not to ameliorate the position of the blacks but to mobilize and prepare the blacks to involve them in a total struggle for a total change.

'This was to be achieved under the banner of black consciousness by means of conscientization.'

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Black consciousness was by definition an attitude of mind, a way of life, the basic tenet of which was that the blacks must reject all values which were sought to make them foreigners in the land of their birth and reduce their basic human dignity.

Blacks must build up their own value systems, see themselves as self-defined and not defined by others.

The concept of black consciousness implied the awareness by the blacks of the power they wielded as a group, both economically and politically. Hence group cohesion and solidarity were important facets of black consciousness.

'The practical effects of this was that appropriate language was used by the conspirators to condemn whites as the oppressors of the blacks, and everything associated with whites, especially its institutions and the police,' said the judge.

'In the process language was used which caused and encouraged feelings of hostility where they did not exist, or furthered feelings of hostility where they did exist between the blacks and the whites as inhabitants of the Republic.

'...and the blacks were persuaded that violence against the whites and their system was morally justified because the whites were inherently violent and unjust'.

The conspirators clearly felt hostility towards the whites and referred to them in documents and declarations as murderers, oppressors, exploiters, fascists, robbers, rapists and enemies, in an emotional sense to communicate that hostility to the black people.

The methods and means employed were designed to create among the blacks a hostile power bloc orientated for action, more particularly political violence.

Referring to the defence contention that the accused envisaged change in the normal constitutional way, Mr. Justice Boshoff said there was nothing in the evidence to suggest there was any genuine desire to bargain.

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Thus in his judgement Mr. Justice Boshoff made it clear that he convicted the nine accused as "terrorists" on the basis of expressions by them of the political frustrations and attitudes of the blacks in South Africa and more particularly of the Black Consciousness Movement. The precedent has now been created for terrorism to be equated not only with physical violence but also with the expression of thoughts, ideas and desires for liberation. This judgement also equates the expression of perception by blacks in South Africa of the white power system as being murderers, oppressors, exploiters, fascists, robbers, rapists and

enemies as an act of "terrorism". In his judgement, then, Mr. Justice Boshoff found that the Black Consciousness Movement in its propagation of rights for blacks in the Republic comprised elements of "terrorism."

What do blacks say black consciousness is?

In a document issued by SASO entitled the Second Report on Arrests, Detentions and Trials of Members and Supporters of the Various Black Consciousness Movements, the following is said about black consciousness.

Black consciousness is a recognition of this (the South African) state of affairs with its multifarious criminal implications, the main effect of which is to keep blacks

in perpetual servitude to oppression. More important, it is a call to every black man to lift off the shackles of his

oppression, to work and strive at all times for the attainment of his basic human rights and dignity. That this basic yearning

the right of every human being to be free from oppression

can be transmuted into a list of hysterical charges of

'Subversion', 'unconstitutionality', and 'violence' is an indictment on the morality and integrity of those who wish

to keep us oppressed. To set the records straight, we

would like to quote from the SASO policy manifesto, as a

reminder that what we are striving for is valid and warranted:

'Black consciousness is:

1. An attitude of mind, a way of life;

2. Its basic tenet is that the black man must reject all value systems that seek to make him a foreigner in the country of his birth and reduce his basic human dignity;

3. It implies awareness by the black people of the power they wield as a group, both economically and politically, and hence group cohesion and solidarity are important facets of black consciousness;

4. The black man must build up his own value system,

see himself as self-defined and not defined by others; 5. Black consciousness will always be enhanced by the

totality of involvement of the oppressed people, hence

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the message of black consciousness has to spread to reach all sections of the black community;

6. Liberation of the black man begins first with liberation from psychological oppression by himself through an inferiority complex and secondly from the physical one accruing out of living in a white racist society;

7. Black people are those who are, by law or tradition, politically, socially and economically discriminated against as a group in the South African society and

identifying themselves as a unit in the struggle towards the realization of their aspirations.'

Who are the real terrorists?

It is necessary to consider why the SASO/BPC terrorist trial was ever held. From the point of view of the white South African power structure, the answer is simple. The charge sheet presented at the trial gives a cogent summary of the white point of view. The point of view of the Black Consciousness Movement can best be given by the following quote from the SASO Newsletter of May/June 1975.

To date since September 1974, about 40 to 50 adherents of the Black Consciousness Movement have been held, or are still being held, incommunicado under the Public Meetings Act of 1956 or under the Terrorism Act of 1967.

I do not like to comment on the paranoia so obviously manifested in the charges and the history of the different acts.

There is only one conclusion that black people can draw from this reckless display of force over what was, after all, simply a proposed declaration of solidarity with the people of Mozambique at the attainment of their basic human rights...

namely that despite declarations to the contrary, the South African Government and its supporters fear and detest the changing pattern of events going on throughout Africa.

Before the Black Consciousness Movement organizations came onto the scene there had been for some time a

lull in the vocal activity in the Black Movement. This was

understandable in the light of the crushing attack on the black leadership by the racist power structure. However,

the Black Movement was working quietly. Our forces and manpower were regrouped, our strategies redefined and the necessary renovations initiated to revive the vibrance and the fearlessness

of the black voice. In this manner, the foundations of the

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movement were secured with optimum success.

Generally, the Black Consciousness organizations recognize the detentions and arrests for what they really are: an attempt to crush totally the Black Consciousness Movement and thereby any black opposition whatsoever to the totalitarian state of affairs in this country.

In the face of this totalitarian drive by the State there has been a wide reaction against the 'T.FRELIMO rally' arrests and solitary confinements. There has been a petition from black women. There have been appeals from members and leaders of government-created institutions - Coloured Representative Council, South African Indian Council and Bantustans. There have been picket protests. There have been appeals from a broad cross-section of churches. There has been wide and sometimes sympathetic coverage given by the press to the arrests and detentions.

There has been international reaction in the form of declarations and demonstrations of solidarity and support abroad for the detainees, the accused and their representative black organizations.

Yet a terrorism trial has been going on since 31 January 1975. Any person accused under the provisions of the Terrorism Act (No.83 of 1967) must prove that his intention was not to commit terrorism. The Act carries a statutory minimum sentence of five years to the maximum sentence of life imprisonment or a death penalty.

What do we see behind the facade? Apartheid as rampant as ever, in all its manifestations. Blacks continue to be discriminated against. The charges against the thirteen accused under the Terrorism Act face any black who refuses to be oppressed - Pn refuses to have his human dignity trampled on. The thirteen accused for offences under the Terrorism Act are the scapegoats chosen by the system.

[e are all seeking a solution. Even those working within the system claim they are seeking a solution. Let those who take lightly the efforts of the black students take note. e mean those who charge 'infantilism'.. those who talk of 'youth adventurism', those who chide about 'students' irrationality', those who seek out 'communist influence'. They live with us. And we live amongst them.

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The rallies were merely to call upon black people to share and join with FRELIO in celebrating their well-earned freedom. There was nothing underhand about, nor was there any ulterior motive for, the planned rallies.

Surely, if whites in this country could publicly demonstrate their support for the terrorist 'Movement for Free Mozambique (MFI.)' without any interference from the State, what was wrong with blacks supporting FRELIO?

Definitely there must be a solution. There must be a solution to arbitrary white thinking. But what if we get up one day to find that the struggle for this solution has outgrown the traditional forms? The future of our present struggle shall have absolved all those who stood up for the truth: those who face police harassment, arrests, solitary confinement, bannings and house arrests, those in Robben Island, those in exile, those who have died standing up for the truth.'

The struggle of the Black Consciousness movement for liberation in South Africa is being carried out under the condition of severe political oppression. The conditions of this oppression rest upon the vast network of South African security legislation, whose main bulwark is the Terrorism Act. It is under the auspices of this act that the security police operate and commit the acts of which they are accused in order to protect South Africa from "terrorism". The Fourth Report on

Detention and Trial under the Terrorism Act in South Africa issued by the Christian Institute of South Africa stated:

"The protection that the Terrorism Act gives the security police and the secrecy with which it allows them to operate make it increasingly likely that it will be used even more often instead of bannings. The present wave of detentions is evidence that such detentions are increasing and are firmly entrenched in 'our tradi-onal way of life.' It becomes increasingly true that many young black people, working for the creation of a more just society in South Africa, take it as a matter of course that they will at some time or other be detained .icommunicado. It is almost as though it is incorporated into their work plan and, when they are eventually released, they continue where they left off before being detained. Often the period of detention is used to clarify and expand their own thinking which means they are even more ready to continue their work when released.

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!-. the same time the inhumanity of the law itself and the effect that it must have on its victims cannot be underestimated. Not only is the suffering of the detainees likely to be great, but also that of their families. These families are placed in extremely difficult financial circumstances, but more important, are deprived of all rightful human contact with, and knowledge of, the person close to them who has been detained. At the same time the perpetrators of the Act have virtually a free hand to detain whom they wish with the full knowledge that their actions need never be accounted for beyond the walls of the interrogation room or the prison within which the detainee is held. This inhuman law is being used extensively at the present time and there is no indication that it is likely to be used less in the future; on the contrary more and more people are likely to find themselves in circumstances similar to those people described in this section of the report."

One of the most remarkable things about the victims of the Terrorism Act is their spirit. Throughout the SASO/BPC trial, the accused remained undaunted and unrepentant. On occasions they entered the court singing with their fists clenched in the black power salute. The police could not prevent their supporters from c.owding into the courtroom at the trial. This was despite police tactics earlier in the trial aimed at intimidating spectators. One one occasion all the spectators were locked in the courtroom for more than 20 minutes while the police took all names and addresses. In the accused and their supporters, the world can see the representatives of the aspirations of blach South Africa and in the security police and the court the world can .ee the representatives of intransigent white South African power.

