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## WHO ARE THE TERRORISTS?

Report on the trials of Dean French-Beytagh  
in Pretoria and of 13 non-whites in  
Pietermaritzburg under the Terrorism Act

by

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[Note: This issue contains the text of a statement by Mr. Lockwood before the Special Political Committee of the United Nations General Assembly on November 9, 1971 on two trials under the Terrorism Act.

Mr. Lockwood, a priest and lawyer, is a member of the Social Criteria Committee of the Episcopal Church of the United States of America. He recently returned from a two-month trip to South Africa where he acted as a legal observer at two trials in Pretoria and Pietermaritzburg, on behalf of the International Commission of Jurists, Amnesty International and the National Council of Churches of the United States of America.

In a resolution adopted on the same day, by an overwhelming vote, the General Assembly expressed its "grave indignation and concern over any and every act of maltreatment and torture of opponents of apartheid in South Africa and the increased persecution of religious leaders opposed to that policy."

\*All material in these notes and documents may be freely reprinted.

Acknowledgement, together with a copy of the publication containing the reprint, would be appreciated.

## STATEMENT BY THE REVEREND LOCKWOOD

On 1 November, All Saints' Day in the Christian calendar, the Very Reverend G.A. French-Beytagh, Dean of the Cathedral of the Virgin Mary, Johannesburg, was convicted of violations of the Terrorism Act of 1967 and sentenced by Mr. Justice Petrus Cillie, President Judge of the Transvaal Division of the Supreme Court of South Africa, to imprisonment for five years, the minimum allowable sentence under the Act.

The trial of Dean French-Beytagh is the latest in a continuing series of political trials and other measures designed to suppress and obliterate all remaining serious opposition to racial domination.

### Erosion of rule of law

The history of South Africa since the Sharpeville Massacre of 1960 has been marked by the steady erosion of the rule of law and the repression of internal criticism. The African National Congress and the Pan Africanist Congress were outlawed. African trade unions and the South African Indian Congress were emasculated by banning their leadership. Strikes and protest demonstrations became illegal. The Liberal Party received the coup de grace when the Prohibition of Political Interference Act (No.51 of 1968) made inter-racial political parties illegal.

Frustrated and denied any fruit from long years of non-violent protest, many leaders of African and non-white groups were forced to turn to sabotage and guerilla warfare. Those who chose to stay in the country were rounded up by a sophisticated and increasingly powerful Security Branch, tried, and sentenced to long prison terms, from which no remission is granted. When the Suppression of Communism Act proved to have certain disadvantages for the state prosecutors, the Nationalist regime applied to Parliament to enact a tougher law. The occasion was the problem posed by Namibian guerillas who were being detained, apparently illegally, for the 180-day detention law did not apply to Namibia.

The Government alleged in urging passage of a more comprehensive law that guerillas, equipped and trained in countries which were Communist or sympathetic to Communism, were infiltrating the country and endangering the lives of every one. Although the Minister of Justice had estimated that about 2,000 persons (a relatively small number) had left for guerilla training abroad, Parliament accepted the Government's picture of the threat and enacted the Terrorism Act of 1967, an act so sweeping in its terms that the Government could prosecute almost any one for almost anything which it chose to regard as a threat to law and order.

Furthermore, in order to enable the prosecution to construct an airtight case, the law permitted unlimited detention of arrested persons and denied the persons arrested any access to judicial relief or review. It is widely known now through the affidavits of former detainees that the South African Security Branch police use refined techniques of psychological cruelty and physical brutality in conducting their investigations. These include solitary confinement, induced sleeplessness, personal humiliation, forcing prisoners to stand for hours on bricks, to sit in imaginary chairs, to be suspended from trees by handcuffs, around-the-clock grilling, physical

beatings and electric shock administered to the ears, toes or genital organs.

Armed with these fearsome weapons, the government might have been satisfied to focus its attention on active guerilla forces. Instead it broadened its attack to include important remaining sources of criticism with international connections and inter-racial membership: the academic community and the churches which were not active supporters of Government policy.

On September 20, 1968, a distinguished group of theologians affiliated with the South African Council of Churches issued A Message to the People of South Africa, attacking the doctrine of racial separation as a false faith and a novel gospel in conflict with the Gospel of Jesus Christ.

The response of the Prime Minister, Mr. B. J. Vorster, was immediate and threatening. In a speech at Brakpan on September 27, 1968, he declared:

"I say there are people who would like to upset order; one group are these little pink ones ... another ... are the people who wish to disrupt the order in South Africa under the cloak of religion.

".... men must not abuse the pulpit to try to attain political ends in South Africa.

".... there are some clerics in South Africa who are playing with the idea and are tossing the thought around among themselves that they should do the kind of thing here in South Africa that Martin Luther King did in America --- I want to say to them, cut it out; cut it out immediately for the cloak you carry will not protect you if you try to do this in South Africa.

A further opportunity to bend the church to the will of the prevailing ideology was presented by the decision of the World Council of Churches in September, 1970, to extend its Programme against Racism by granting \$200,000 to the use of liberation movements in southern Africa. These grants, though earmarked for humanitarian causes such as education, welfare, medical care and relief of suffering and not for arms, were interpreted in South Africa as active support for guerilla warfare itself. Mr. Vorster called the decision, "to put it mildly, shocking." The Anglican Bishop of Johannesburg, the Right Reverend Leslie Stradling declared it "quite intolerable". The Anglican Archbishop, the Most Reverend R.S. Taylor, predicted that South African churches were almost certain to withdraw from the World Council. Nothing could have suited the Prime Minister better and indeed he demanded that withdrawal take place forthwith or the churches would have to face the consequences.

But the United Presbyterian Church of South Africa, which had just voted to merge with two African Presbyterian churches, showed the Prime Minister that it did not intend to surrender docilely and rendered Archbishop Taylor's prediction at least premature:

"The Assembly reminds the Prime Minister that its only lord and master is Jesus Christ and it may not serve other masters and that its task is not necessarily to support the government in power but to be faithful to the Gospel."

But Mr. Vorster renewed his attack on the liberal church's avant garde, whom he accused of trying to explain away the decision of the World Council of Churches.

"It is no political matter, it is a matter in which Communist-controlled, Communist-armed terrorists are sent to commit murder on white and black man, woman and child in order to gain control of South Africa."

#### Arrest of Dean ffrench-Beytagh

In view of this background, it was not surprising that the police arrested and charged a prominent and outspoken liberal Anglican, an expatriate priest holding a British passport. The first charges laid against Dean ffrench-Beytagh sprang from his possession of certain pamphlets issued by the African National Congress and the South African Communist Party. The police had seized these pamphlets in a raid on his apartment on January 20, 1971, a day after the Dean had been absent for three days at a conference during which time the flat was vacant. It was alleged that the Dean was guilty under the Suppression of Communism Act of 1950 of receiving and safeguarding these pamphlets for distribution and/or assisting in their distribution and/or possessing them for distribution. In the alternative, it was alleged that his mere possession of these pamphlets was sufficient to show that the Dean is or was associated with these banned organizations.

The Dean denied any knowledge of these pamphlets: they were not his; he had never seen them; they must have been "planted".

Following these charges, the Dean was placed in solitary confinement for a week, during which time he was subjected to personal humiliations and degrading conditions. Upon the intervention of the British consul, he was allowed legal counsel and was freed on bail. The security police raided the offices of the Dean, the National Union of South African Students, the Christian Institute and the office of the Reverend Howard Trumbull, an American missionary of the United Church of Christ, who had collaborated with the Dean in handling money for the defence and aid of political prisoners. The police collected all conceivably relevant documents and many that had no such relevance.

On June 28, trial was set for August 2, and a detailed indictment served, alleging ten counts of participating in terrorism in contravention of the Terrorism Act. In summary, the indictment alleges that the African National Congress, the South African Communist Party, South African Indian Congress, South African Coloured Peoples' Congress and others formed a plan in 1961 to overthrow the Government by sabotage, guerilla warfare

and armed uprising and that the Dean accepted the plan. It further alleges that he incited people to support violent revolution. Finally, that he received from Defence and Aid Fund, London, through the agency of Miss Allison Norman, 51,400 rand (\$71,960) and distributed these monies for the defence and aid of some 130 persons accused and/or imprisoned under laws suppressing illegal political activity or detained or restricted or in a few cases, persons who had left the country.

#### Trial of the Dean

Mr. Justice Petrus Cillie, President Judge of the Transvaal bench, assigned the case to himself for hearing without assessors or jury. Mr. Justice Cillie was appointed judge by the Nationalist Government before achieving the rank of senior counsel. He had sat on two delimitation commissions which were widely regarded as gerrymandering committees to increase Nationalist votes. He had been the judge who had convicted Lawrence Gandar and Benjamin Pogrund, distinguished editors of the Rand Daily Mail, of failing to take reasonable care in exposing the shocking conditions of South Africa's prisons.

I will not review in detail the evidence brought forth at the trial itself which lasted from August 2 to September 30, except for a two-week break when evidence was taken on commission in London. I was present on most days when evidence was led and I have reviewed the extensive reportage of the Rand Daily Mail, the Star and other papers.

The courtroom itself, a former Pretoria synagogue, seems designed to prevent the general public from hearing testimony. Only if one is seated in front, as I was, can one hear what the witnesses say. When I suggested to the judge that the public might appreciate a public address system, he feared technical difficulties and continued to rely on ineffectual reminders to the witness to speak louder. When I asked the State Prosecutor to speak louder on one occasion, he remarked that he was too tired to do so. No attempt was made to translate Afrikaans witnesses' testimony for the benefit of observers who understood none.

The public was at the same time under constant surveillance by as many as twenty or thirty security police in plain clothes. The slightest titter of merriment at the self-contradictory or inane testimony of some witnesses was met with a barked SILENCE IN COURT.

The State's case rested almost entirely upon the testimony of commission and volunteer police spies, informers and agents provocateurs and upon the production of enormous quantities of letters, correspondence, and other material taken from the Dean's possession.

The chief witness for the State, L.H.K. Jordaan, was an unstable young man whom the Dean had befriended and accepted as a pastoral charge. The Dean tried to channel his excitable adventurist energies into constructive activity by suggesting he join the Nationalist Party and if we are to believe

Jordaan, to join the ranks of police reservists in order to learn what he could. The Security Branch turned Mr. Jordaan to their own purposes in March 1969. By his own admission, Mr. Jordaan confessed that while the Dean had never done anything illegal, he, Jordaan, subsequent to his recruitment, had urged the Dean to arrange training in sabotage for him, suggested the sabotage of warships and had showed the Dean a gun inviting comments and suggestions as to how to use it. Even after the Dean had been arrested and charged, he offered to help him escape secretly from the country. The South African police seem to have been more interested in inducing a crime in this case than in preventing one. The Judge has now found that French-Beytagh incited Jordaan and not vice versa.

A parade of undistinguished spies followed. Some had pretended to be interested in Anglican confirmation. Others had offered themselves as liberals interested in the "righteous aspirations of indigenous peoples".

Mrs. Stephanie van Heerden, an anxious Nationalist of the strictest school, who believes that Mr. Vorster is not doing enough to stamp out Communism and that mixing blood is the downfall of civilization, infiltrated the Black Sash, a small liberal group of some 500 middle-class ladies. Her testimony was that the Dean had told stories about his trip to America and his contact with Black Power advocates and had told of certain methods used by groups trained by Saul Allinsky in Chicago. He suggested the Black Sash, for which he had great admiration, should think about what they would do if there were an armed uprising in the country. If there were another Sharpeville, he said, it might well be the end of the country.

The Judge has now apparently found that these statements encouraged his hearers to contravene the laws of the country, thereby supporting violent revolution. So the normal discussion of the real ethical choices which people must make has been converted into an act of terrorism itself. The Black Sash, which has about the same revolutionary potential as the League of Women Voters in this country, although nothing like its numerical strength, has been turned into a possible cadre for doing something illegal and therefore terroristic. In South Africa, a judge need not consider whether there is a clear and present danger of revolution resulting from words. Here words are subversive. Bare illegality is enough.

But the heart of the Dean's offence was that he had received money from an organization which the Government had banned, the Defense and Aid Fund, and that he had used it to improve the morale of political prisoners and exiles. The State could produce no direct documentary or verbal evidence that a penny had come from Defense and Aid. It did produce one Major Zwart of the Security Branch who testified that after almost a full 24 hours of wooing Miss Allison Norman's friendship and plying her with alcohol at noontide, she inquired if he would be willing to act as an agent of Defense and Aid. Miss Norman testified that she never drinks in the middle of the day and certainly not mixed drinks and that she never solicited Major Zwart. Her testimony was corroborated by her cousin. I believe Zwarts' testimony to be inherently improbable and bearing the telltale marks of an accomplished liar unskilled in inventing British upperclass talk.

Time and again the prosecutor returned to the theme that providing counsel for the accused in a trial or providing the necessities of life for the families of political prisoners was an aid to the morale of guerilla fighters, terrorists and exiles. By five days of relentless, tedious and repetitious harassment, the State Prosecutors attempted to get the Dean to admit that he was the kingpin in a sinister plot, that he had a secret organization and that he shared the plans of A.N.C., P.A.C. and the Communist Party. To no avail.

The Dean admitted readily that he had received money from Miss Allison Norman and a few of her friends in England, that he had administered it for the relief of suffering people who seemed unlikely to get help from anywhere else. He confessed that he had sent wives to Robben Island prison to see their husbands, that he had arranged Christmas presents, that he had paid for school fees, books and uniforms, and that he had supplied prisoners with food, spectacles, books, legal fees, and, in one case, an artificial leg. He denied that the source of the money was Defense and Aid Fund so far as he knew. His authority was the 25th chapter of St. Matthew's Gospel in which the poor, the hungry, the thirsty and the imprisoned are said to be Christ's brothers and sisters.

He admitted that he had said on many occasions that violence might be inevitable in South Africa but far from advocating it, he felt it would be a tragic confession of the failure of the white society to face its problems. He felt revolution could not succeed and might result in worse conditions for every one.

It has now been adjudged that the Dean's reading of the Gospel is subversive generosity. Charity extends no further than the congregation.

I fervently hope that this monstrous judgment will be reversed on appeal.

#### Terrorism trial in Pietermaritzburg

While the Dean's case received widespread press attention, another trial which is still proceeding in Pietermaritzburg did not. This trial proceeds out of an indictment charging that the 13 defendants assisted a recruiting drive conducted by leaders of the Non-European Unity Movement from its base in Zambia. The defendants admit that they are members of the Movement in South Africa but that they did nothing illegal in collecting money for the Movement and that the recruiters were recruiting for political education, not for military training. I will not comment on the truth of these charges or of the defence but I can make these observations:

This trial illustrates the new weapons which the Terrorism Act places in the hands of the prosecution. The defence is deprived of any knowledge in advance of the trial of what the witnesses for the State will say. There is no summary pre-trial in these cases. The list of witnesses is a closely guarded secret. All of the important witnesses have been locked up and held in detention and incommunicado for varying lengths of time. The most

important witnesses are still held even after testifying. While in confinement, they have no recourse to a lawyer nor any right to see a magistrate nor to let any one else in the outside world know how they are being treated.

Questioning by the police is alternated with solitary confinement until a written statement satisfactory to the police is obtained. Thereupon the witness is either released with a warning not to discuss the case and especially not with the defence or if he is important, locked up but given increased liberties and privileges: radio, magazines and recreation. The confinement can be continued indefinitely. There is no right of habeas corpus.

Crossexaminers trying to discover the methods used by the police are usually incapable of breaking the carefully prepared testimony of those who have been through the interrogation process. The reason is quite clear.

In the well of the court sit four or five of the police inquisitors. The team stares fixedly at the witness as he testifies. They are at the elbow of the Prosecutor and feed him notes of any deviations from the prepared script. The team is led by Colonel T.J. Swanepoel, described by the Dean in the other trial as a very cruel man and a sadist. Among his colleagues is the notorious "Spyker" (Nailer) Van Wyk, who is linked with the death under detention of the Imam Haron in Cape Town in 1970.

It is no wonder that the witnesses almost always tell how good the food was in detention, how polite and considerate the police were.

In two instances the system failed. Jonathan Beyneveltdt, a boy of nineteen, from Cape Town area, differed from his written statement. Under cross examination, he revealed that in his initial questioning, the police had shouted at him and browbeat him for an hour. Sergeant Van Wyk struck him across the face three times so hard that his hearing was affected. He was told that the police were prepared to hold him indefinitely. That night he was placed in solitary confinement without proper clothing, though it was cold. The next day he was questioned again and told that another witness had identified him as being present at a meeting where one Moen had been present. If he did not tell the truth, he would be locked up indefinitely. Although he could not recall the meeting, he signed, without reading, a statement prepared by the police so as to corroborate the story of the other man. When Beyneveltdt ended his testimony, the Prosecutor, Mr. Rees, impeached his own witness with the written statement. As he left the box, Beyneveltdt was seized by the Security Branch, taken to the Magistrate's Court and charged with perjury. The trial is yet to be heard.

Another witness, named Isaacs, was threatened by the police in the corridor of the court. When he failed to produce testimony to the prosecutor's liking, he was told by a Security Branch officer that if he did not come back the next day and change his testimony voluntarily, he would be locked up indefinitely.

Witnesses are not the only objects of intimidation. Colonel Swanepoel told one defence lawyer when the trial opened: "You wait. After this is over,



we are going to fix you." One newspaper reporter told me that the Security Branch had threatened him for publishing a truthful account of a witness' testimony that he had been detained in solitary confinement for five months. On one occasion, while I was taking pictures outside the court building, Colonel Swanepoel told me that I should be more "secretive in your intelligence work". When challenged, he said, "You know very well what I mean".

Other testimony illustrates the fact that South African police regard Botswana as their territory, too. One witness, a citizen of that country, had been seized at her home in Botswana and told that she must come to Mafeking to make a statement if she wanted to see her husband again. Her husband, also a Botswana citizen, had been seized while riding a tractor on the South African side of the border. When the woman saw him in Mafeking, he complained of being hit a great deal by the police and she saw many bruises on his face. She saw him again some months later and there were fresh bruises on his face. So far as I know, her husband may still be in detention.

#### Brutality and torture by the Security Branch

More serious than any of these allegations, however, are certain affidavits of some of the accused describing the methods used by the Security Branch at a forest camp in the Transkei. Physical brutality of the grossest kind, torture, including the use of electronic shock machines attached to the genitals, are alleged in such painful detail that even to read it is sickening and revolting.

One Mtayeni Cutshela, a Pondo of about 50, a headman, died while in detention at Umtata, apparently as a result of beatings and torture at the hands of the Security Branch. I have copies of the defendants' statements and affidavits. They make a prima facie case for judicial inquiry.

Nor is the death of Cutshela the only death. During a nationwide roundup of Indians, white academics and churchmen a few days ago, Mr. Ahmed Timol jumped or was pushed from a tenth floor window of John Vorster Square police station in Johannesburg. The number of deaths of people in detention in recent years now approaches twenty.

Despite the continued protest of newspapers and some white public opinion, despite the vigil and fast of the Reverend Bernard Wankmore, who brought himself close to death in protest against the lack of judicial inquiry into the death of the Imam Haron, notwithstanding the call of Archbishop Taylor of Capetown and other distinguished clergy for such an inquiry, Mr. Vorster is adamant. There will be no inquiry. The police are evidently a law unto themselves.

It is true that in some cases, magistrates have restrained the police from interrogating in an illegal manner; in some cases the families of the dead have achieved an out-of-court settlement of damages which eases the financial crisis of death; and in one case reported in the Natal Mercury of September 3, two policemen were convicted of suspending a man from trees by

his knees and using electric shock. But not many restraining orders are obtained; damages do not bring back the dead; and the convictions were not matched with adequate sentences: three months for one policeman and 100 rand (R140) fine for his accomplice.

Under these circumstances: Who is committed to savage retribution and illegal methods? Who is that is really committed to violence? Who are the terrorists?