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SPECIAL COMMITTEE ON APARTHEID

HEARS

JUDGE WILLIAM H. BOOTH

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[On July 19, 1971, the Special Committee on Apartheid granted a hearing to Judge William H. Booth of the New York City Criminal Court, who had recently visited South Africa as an observer for the American Protestant Episcopal Church at the trial of the Anglican Dean of Johannesburg, the Very Reverend Gonville A. French-Beytagh. His statement to the Special Committee, and a summary of questions and answers which followed, are reproduced in this issue of "Notes and Documents".

Admitted to the New York Bar in 1950, Mr. Booth has been active for many years in public affairs and has received over 50 awards for community service. He served as Chairman of the New York City Commission on Human Rights from 1966 to 1969 when he was appointed Judge of the Criminal Court.]

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STATEMENT BY JUDGE BOOTH

As a criminal court Judge in New York City and former City Human Rights Commissioner, it may seem unusual for me to appear here to testify about South Africa. However, I appear since recently I spent ten days in South Africa as one of two observers for my church, the American Protestant Episcopal Church, at the trial in Johannesburg of the Dean of the Anglican Cathedral there. Those ten days sped by all too swiftly but their experience gave me a few solid impressions.

Of course, I don't appear before you as a ten-day wonder; I could not possibly have absorbed enough in ten short days to become an expert and to offer you solutions to the mighty problems confronting you. My observations, however, may be taken by you and, together with all the other testimony you've taken, may help you in formulating legislative action. The report I hand you has the details of our trip; I shall, therefore, only highlight them here.

Misleading propaganda

First, there is a considerable public relations effort by South Africa to change its image. Witness, for example, the news story that penalties have been lessened for "pass law" violations. If you examine it closely, however, you will see that the new "relaxation" is merely a tightening of the vise, for now the black man who is allegedly in the wrong place at the wrong time is sent to an administrative office instead of a court where, in effect, his labour is to be sold to the lowest bidder. The Government will now have a better-controlled labour market.

Another example of South African public relations is the call for "dialogue" with black African nations. To the democratic-oriented American, this sounds logical and civilized. But thank God the Organization of African Unity saw through it and voted against such "dialogue". They said by a vote of 3 to 1 that such "dialogue" would be meaningless unless apartheid were to be discussed and unless black South Africans were to be included in the talks. Some ten nations, out of 41 in the O.A.U., believe the dialogue would be worthwhile; of course, since these are the smaller, weak nations the value to them would be in the economic advantages, the bribes, offered by the South Africa Government.

The New York Times printed a letter which supplies us with another public relations ploy. The writer suggests that the United States cannot throw stones since our policies in the past have been inhumane. Then, he says that apartheid no longer has meaning, that the present policy is "separate development". Besides being a horrible play on words, "separate development" takes me back to 1896, Plessy vs. Ferguson "separate but equal"; the 1954 doctrine of Brown vs. Kansas rings loudly in my ears - "separate is inherently unequal".

Dimbaza - half the children die before one year

If you could have seen with me the "separate development" area of Dimbaza, in southern South Africa, you would be reinforced in the Brown decision. I saw in Dimbaza the graves of 38 little children, under the age of one year, all of whom had died in the previous month, of malnutrition. I saw 62 more open graves - waiting for infants to die in Dimbaza, the "resettlement or homelands area" where blacks are sent to "separately develop. Fifty per cent of all children born in Dimbaza die of malnutrition before they reach one year of age. And the parents decorate their sorry little graves with milk bottles, rattles and other toys so they will be happy in death as they were unhappy in life.

Prisons for blacks

A cruel propaganda hoax is played by South Africa in its slick, colour book entitled "Prison Administration in South Africa". This costly fraud contains pictures of Leeukop Prison for black prisoners, a facility which I visited. The pictures show beds, with blankets, sheets, and pillows in a dormitory for prisoners - together with good lighting, desks, and no overcrowding. But, what I saw in Leeukop was just the reverse. I saw cells, 30' x 30', in which 35 to 40 prisoners were cramped, spending long terms, with no beds, no desks, no lights, no furniture and no facilities except one open toilet bowl and a water tap above, which serves a dual purpose, flushing the toilet bowl and drinking out of cupped hands! These prisoners sleep, night after night, on small pieces of cloth, 3' x 6', laid directly upon the concrete floor. And when the prison director, Colonel Pretorius, called to ask them how they were doing, of course they answered in chorus, "Fine, Colonel".

Unconscionable laws

The South African is proud of his judicial system. And it seems true that "justice" is well administered. But the law that is administered is bad, is inhumane, and is unconscionable. Consider that a man can be arrested by the police on mere suspicion and held, without charge, for 180 days, 6 months. He can then be released, and re-arrested, on mere suspicion, and without charge, for an additional 180 days. Or, consider some laws there under which detention without charge can continue without end. Consider, further, that Parliament there has proclaimed that no court may intervene to determine the reasonableness of such detention, or to set bail.

Finally, consider the Bantu Commissioner's Courts which administer pass law violations. At one of them in Fordsburg, we were detained so as to keep us from seeing their full operation. But, because of the overcrowded calendars - 1,900 are arrested daily for pass law violations - the defendants are herded through like cattle! Joel Carlson has estimated that each defendant is given 20 seconds for charge, trial, decision and sentence!

Parenthetically, the few black lawyers in Johannesburg illegally occupy their offices since no black man is allowed to "occupy" urban space - and "occupy" is broadly construed to include office space. Even in court, the black lawyer must sit at a separate table. And the finding of contempt against one such lawyer who refused such separation was upheld on appeal! Lawyers who desired to talk with me at a luncheon were refused service at two restaurants, and had to settle for a luncheon date in the office dining room of a client.

Concern of the outside world

Hope for South Africa's coming into the community of nations lies in three variables:

1. The evident, almost complete, freedom of the South African English-written press;
2. The awakening of the young South African; and
3. The concern of the outside world.

On the last point, it seems proper for all the institutions of American society to concern themselves, and communicate with, the corresponding institutions of South African society. "International" unions here ought to be organizing South African workers. American business ought not to rely upon the sated opinions of their resident South African-thought-oriented American managers and directors; American business ought to practise in South Africa the same "equal opportunity" code preached here. "Compliance" offices have been established for American corporations operating here - an extension of such offices to South Africa is urgently needed. American churches ought to come out of the sand and communicate with South African churches, and so on.

When I was president of the New York State Conference of Branches of the National Association for the Advancement of Coloured People, in 1965, we developed a programme whereby each of our 65 branches "adopted" a Mississippi NAACP branch. This project was successful; it may very well be adapted to use by American fraternal and service organizations here today; none of us here can survive long if one of us, a piece of the same humanity, is suppressed elsewhere in our "grown-small" world.

Thank you, Mr. Chairman.

SUMMARY OF QUESTIONS AND ANSWERS

The CHAIRMAN, H.E. Mr. Abdulrahim Abby Farah (Somalia), said that Member States, with one exception, agreed that the international community had a legitimate right to discuss the problems raised by the implementation of the policy of apartheid. What effective action could the international community take to put an end to the enormous suffering inflicted on non-whites in South Africa?

Mr. BOOTH said that the United Nations should apply economic and political sanctions against South Africa as it had done against other countries. Such a course of action could well impress upon the South African Government the fact that it could no longer exist by imposing its will on 15 million non-whites. Sanctions could be employed by individual States if it was impossible for all Member States to act collectively. However, precedents existed for collective action by Member States to end the dehumanization of peoples.

Attitude of the news media

Mr. MUSTAFA (Sudan) said that the news media in the United States paid little attention to issues which were extremely important for Africans. He would like to know whether anything could be done or had already been done to involve the United States news media more closely with the problems of South Africa.

Mr. BOOTH said he was aware of the situation referred to by the representative of the Sudan. Since his return from South Africa, he had spoken to as many people and organizations as possible, in an attempt to arouse their interest in the apartheid problem. Moreover, he had also addressed the Sub-Committee on Africa, United States Congress, and although the press had attended the meeting, there had been no coverage of his statement by the newspapers or on radio or television. In his view, the only remedy for that situation was to keep up the pressure; whenever he addressed a meeting, the audience was amazed and shocked to learn of the conditions in South Africa, and wanted to do something about them. He would continue to speak on the subject at every opportunity, and hoped that in time public opinion would become aroused to the point where the press could no longer afford to ignore the South African question.

Freedom of the press and student opposition

Mr. GODWYLL (Ghana) said that Mr. Booth's statement had afforded an important insight into the inner workings of apartheid. He would like to know what evidence the petitioner had seen for the freedom of the press to which he had referred, and would also welcome information on the extent of student opposition to Government policies.

Mr. BOOTH said he could make available a considerable number of newspaper clippings - articles, headlines, editorials and cartoons - showing opposition to Government policies. An example was the cartoon which had appeared when his group had been detained by the South African police; a drawing had been published showing the members of the group behind bars, with a caption indicating that their wish to see apartheid in action had indeed been granted. There had been many editorials opposed to that action by the police, and in general the clippings which he had collected showed considerable opposition to Government policies with regard to separate development, detention without charges and discourtesy to visitors. However, that applied only to the English-language press; the Afrikaans press had not even mentioned the visit of his group. Also, the freedom which was apparent did not extend to reporting on prison conditions and legal defence questions; indeed, there had been cases where members of the press had been arrested for describing the conditions in prisons.

The group of South African lawyers he had met had apparently been disturbed because his skin colour was not as dark as they had expected. When he pointed out that nevertheless he was not allowed to eat with them in public restaurants in Johannesburg, they had said that arrangements could be made, but he had said that he would prefer if possible to visit a maximum security prison. Accordingly, his visit to Leeukop prison had been arranged, and when after the visit he had told reporters what he had seen, they had said that they would not be able to print such material. However, their editors had stated that if the question were raised in Parliament, publication might subsequently become possible...

Since that time the Minister of Justice, Mr. Pelser, had contradicted his statement that 200 prisoners under the age of seventeen were detained for life on Robben Island, saying that no such prisoners were detained there and that without visiting the island the petitioner was not in a position to make such an allegation. He had accordingly challenged the Minister to prove the truth of his statement by throwing the island open to visits by the press and members of Parliament, and by the general public.

With regard to the protest movement among students, he had witnessed the beginnings of what could become a strong protest movement at Witwatersrand University, where on Republic Day, 30 May, 1,200 of the 10,000 white students had attended a meeting at which the Government had been denounced. It was also apparent from his visits to the Federal Theological Seminary and to Soweto that black students were extremely concerned at the situation and were organizing their protest in defiance of South African legislation, on some occasions in co-ordination with white students. While it was not possible to rely on the ideals of young people to bring about change, since as they became older they would have to become part of the establishment in order to earn a living, he did not believe that opposition as broad as that which he had seen could be completely neutralized by such means; to the extent that a large proportion of the population would continue to fight for change, there was hope for the future.

Crime against humanity

Mr. AHMAD (India) recalled the second paragraph of the Preamble to the Charter of the United Nations, which reaffirmed the faith of Governments in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women and of nations large and small. The Governments of India and the United States, as well as South Africa, had signed that Charter, which must surely be regarded as a part of international law. He also recalled Mr. Booth's statement about the graves of small children he had seen at Dimbaza. As a judge, would the petitioner term such conditions a crime against humanity?

Mr. BOOTH said that although he was not an expert in the subject, he believed that the United Nations Charter did form a part of international law. The resettlement area at Dimbaza had been established by the South African Government, which told the black population that they would be provided there with housing, medical care, jobs and other amenities. When they arrived, they found no tillable land and no work available except under contract to white employers, outside Dimbaza, for periods of perhaps a year and a wage of, for example, 19 rand (approximately \$27) a month. During his visit to Dimbaza, he had seen for himself the poverty and malnutrition inherent in the South African Government's idea of "separate development". He had also visited the Transkei region, which was the only self-governing black area in South Africa. However, its Parliament was a mere puppet body, in that although all the ministers were indeed black South Africans, their secretaries were Government-appointed officials. His visits to tribal villages had revealed a complete contrast to Dimbaza; the land was tillable and the huts in which the population lived were kept clean and neat...

Perhaps the most striking feature of his visit to Dimbaza had been the primitive toys such as milk bottles and rattles placed on the graves of the small children in order to ensure that they would be happier in death than they had been in life. Another such area was Pimville, described by Father Desmond in his book, The Discarded People, for the writing of which he had been placed under house arrest.

The treatment meted out was clearly a crime against humanity, and there must be some way in which the judgement of the community of nations could be brought to bear on the Government of South Africa and on the individuals responsible.

Contacts with church leaders

Mr. GODWYLL (Ghana) asked whether Mr. Booth had had any contact with church leaders in South Africa, and whether his report to the Presiding Bishop of the Episcopal Church of the United States would be submitted to a United States Government agency.

Mr. BOOTH said he had submitted his report to the Presiding Bishop, who had distributed it to all Episcopalian bishops in the United States and to the deans of all Episcopalian cathedrals, and had made it available to the press. He had also made the report available to Congress, through the Sub-Committee on Africa. However, he had heard of no action by his Government on the report or with regard to his detention by the South African police. In his view, the Government of the United States had not taken an adequate stand. To his knowledge it had not even signed the International Covenants on Human Rights. Congress had recently voted a measure to benefit South Africa by purchasing South African sugar at double the market price...

His contacts with church leaders in South Africa has been extensive. He had stayed at the home of the Bishop of Johannesburg, who had been informed by the police that although they knew of the visit they would take no action. He had also spoken with many other members of the Anglican church, both black and white, including students at the Federal Theological Seminary. The Anglican Bishop of the Transkei had informed him that in 1964 his diocese had voted for equal pay for black ministers and church employees. Since that time the salaries of white employees and ministers had been frozen, while those of blacks had steadily increased, with the result that by 1972 there would be full equality. Such action was legal, since no law in South Africa specified unequal pay for equal work. That example could well be followed by other dioceses in South Africa. Outside South Africa, the church had not done enough...