



**SOUTH AFRICA 1984:
RENEWED RESISTANCE,
INCREASED REPRESSION**

***SOUTHERN AFRICA PROJECT
1984 Annual Report***



LAWYERS' COMMITTEE
FOR CIVIL RIGHTS UNDER LAW
1400 'Eye' Street, N.W., Washington, D.C. 20005

HISTORY AND PURPOSE OF PROJECT

In the midst of the burgeoning civil rights movement which swept the country in the early 1960s, President John F. Kennedy invited a group of prominent lawyers to the White House and implored them to lend their professional skills and support to the struggle for racial equality. It was in response to this plea that the leadership of the American Bar Association and many state bar associations established the Lawyers' Committee for Civil Rights Under Law in 1963.

Since its inception, the Committee has engaged the support and active involvement of eminent members of the legal profession—including past presidents of the American Bar Association, former U.S. Attorneys General, and law school deans—in civil rights work aimed at eradicating the last vestiges of discrimination whether based on race, creed, color, or sex. The struggle to eradicate racism and discrimination in the United States is an ongoing effort. The task has yet to be completed.

Cognizant that the domestic struggle for civil rights is inextricably linked to the struggle for human rights in other parts of the world, the Lawyers' Committee in 1967 established the Southern Africa Project in response to requests for assistance in cases involving human rights in South Africa and Namibia.

In essence, the Project seeks (1) to ensure that defendants in political trials in South Africa and Namibia receive the necessary resources for their defense and a competent attorney of their own choice; (2) to initiate or intervene in legal proceedings in this country to deter actions that are supportive of South Africa's policy of *apartheid*, when such actions may be found to violate U.S. law; and (3) to serve as a resource for those concerned with the erosion of the rule of law in South Africa and that government's denial of basic human rights.

SOUTHERN AFRICA PROJECT ANNUAL REPORT

SOUTH AFRICA 1984: RENEWED RESISTANCE, INCREASED REPRESSION

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SOUTH AFRICA 1984: RENEWED RESISTANCE, INCREASED REPRESSION

As 1984 began, the South African Government touted to the world a package of reforms designed to make apartheid "acceptable" for international consumption. But as the year ended, black protests and harsh governmental repression increasingly defined the politics of South Africa. Stronger alliances were evident among the cross-section of the population who actively oppose apartheid--labor, student, church, and community organizations. Nearly a million students boycotted classes to protest apartheid policies that budget at least seven times as much for the education of Whites as for black education. Independent black trade unions engaged in a record number of strikes, including the first legal strike by mine workers. Protests spread from urban centers to rural areas, usually isolated from political activism. And nearly a million workers and students participated in a two-day general strike in the Transvaal Province, an action which South African newspapers termed "a new phase in the history of apartheid."

This widespread and increasingly unified opposition served to focus popular resistance against the South African Government's plans to restructure and entrench the apartheid system. Mass rejection of a new constitution took the form of a boycott of elections for new members of Parliament that was 80 percent effective. Coinciding with the election boycott was a series of protests in black townships over higher rents and the increased cost of living generated by South Africa's economic recession but imposed disproportionately on Blacks by that country's apartheid policies.

The unrelenting suffering caused by apartheid contributed to the rising black anger. The forced relocation of Africans to the bantustans continued. The "pass" laws and influx control regulations which place stringent controls on the movement of Africans were enforced harshly. A "Commissioner's Court" outside Cape Town prosecuted Blacks at the rate of one every few minutes. Their only crime was to have moved to the city either for employment or to live with their families without the requisite governmental permission. A government-appointed commission of inquiry into the administration of justice, led by a Supreme Court judge, noted in its report issued in April 1984, that most of those Africans prosecuted for pass law offenses were not real criminals but "breadwinners...the needy victims of a social system that controls the influx of people from the rural to the urban areas by penal sanctions...[T]he reason for this virtually unstemmable influx is poverty."

The preliminary findings of a Carnegie Corporation study also released in 1984 graphically demonstrates apartheid's everyday effects on Blacks. In some areas of South Africa infant mortality is 31 times higher for Blacks than for Whites. A lack of appropriate and sufficient food causes the physical stunting of one-third of all black children under 14 years of age. The number of destitute Blacks rose from 250,000 in 1960 to almost 1.5 million in 1980, while the number living below the "minimum living level" jumped from 4.9 million to 8.9 million.

Determined to crush all opposition, South African police and military personnel have used live ammunition, rubber bullets, birdshot, tear gas, whips and attack dogs against demonstrators, striking workers, and even mourners at funerals. In the growing unrest over rent increases, rising unemployment, severe shortages of government housing, inferior education, low wages, forced removals, and particularly over the continued denial of political rights for 73 percent of the country's population, more than 150 people had died in clashes with the police by the end of the year. Hundreds more were injured.

In October, the South African Government sent a combined force of 7,000 police and armed forces into three black townships--Sebokeng, Sharpeville, and Boipatong--to conduct a house-to-house search of an estimated 225,000 inhabitants. The Southern African Catholic Bishops' Conference, in its report on police brutality, stated that "police behavior in the townships resembled that of an occupying foreign army controlling enemy territory by force without regard for the civilian population and, it appears, without regard for the law." The deployment of the military was unprecedented since the State of Emergency in 1960. And in an effort to guarantee sufficient force to suppress the growing resistance to apartheid, the South African Government found it necessary to increase its budget allocation to security forces by more than 25 percent.

Police brutality following funerals was, according to the Southern African Catholic Bishops' Conference, "particularly provocative." For example, in one situation policemen entered a bus filled with funeral mourners to beat them. During another funeral in late September outside Johannesburg, the police arrested nearly 600 mourners on charges of participating in an "illegal gathering." They were attending the funeral of a victim killed in the unrest.

Trade union activities were also targeted. In September, police attacked mine workers engaging in a lawful strike with pick handles, rubber bullets, batons, dogs, and tear gas. Sixteen were killed and over seven hundred injured. And Sasol, South Africa's state-run synthetic fuel plant, fired over 6,000 employees who had joined November's massive two-day strike.

The government tried to stifle peaceful protest by banning meetings. In September, the government banned all indoor meetings at which government policies might be discussed. In October, the government banned all outdoor meetings, including funerals, in the area around Johannesburg known as the Vaal triangle.

Detentions were widespread. Twice as many people--1,149-- were detained without trial under South Africa's draconian security legislation than in 1983. In all, nearly 3,000 were jailed for political reasons. Five of those held in detention in 1984 died under suspect circumstances. Their deaths were widely attributed to torture.

There was also a dramatic increase in the number of political trials. At least 107 trials were completed in 1984. The South African Government attempted to cast a net of criminality over the activities of its opponents by charging them in increasing numbers with treason and subversion, thus slandering activities that elsewhere would be considered fundamental to the free exercise of civil and political rights.

By the year's end, the country was described by the South African Institute of Race Relations as being in the grip of the "worst wave of repression since 1976." Other groups declared an impending state of civil war.

Events inside South Africa triggered increased world attention. The Free South Africa Movement gave new impetus to the American anti-apartheid cause and in October Bishop Desmond Tutu, a leading South African opponent of apartheid, received the Nobel Peace Prize. In honoring Tutu, the Nobel Committee stated that he reflects "the courage and heroism shown by black South Africans in their use of peaceful methods in the struggle against apartheid."

It was against this background of increased protest against apartheid and spiraling government repression that the Southern Africa Project continued its work in 1984. To counter the legalized injustices of apartheid, the Project fought for the rights of Africans to remain residents in their traditional villages, for the right of South African citizens to live free from state harassment, and for the right of peaceful black political and trade union organizations and leaders to function.

The Southern Africa Project aided, in full or in part, all of the cases discussed in this Report. It paid lawyers' fees and other litigation costs. It supplied legal memoranda to counsel, especially on international legal issues. The Project worked to raise the attention and consciousness of the American public to the abuses connected with the cases it assisted and the larger context in which they arose.

THE ELECTION BOYCOTT, THE TOWNSHIP PROTESTS, AND THE SCHOOL BOYCOTTS

During 1984, the work of the Southern Africa Project of the Lawyers' Committee was shaped largely by the heightened political mobilization in South Africa--the election boycott, the protests in the black townships, the school boycotts and other forms of opposition to apartheid.

The Election Boycott

A new level of resistance in South Africa was sparked by the adoption of a revised constitution which denies political participation to the 73 percent black majority and offers only limited participation to the Coloured and Asian population groups. The new 1984 constitution is a key element in the entrenchment of South Africa's apartheid policy. The document mentions Blacks only once, in a provision which gives the South African President "control and administration of black affairs." It creates racially-separated chambers of parliament for white, "Coloured," and Asian population groups, with weighted votes that guarantee the continuation of white decision-making on issues of national importance.

Popular opposition to the new constitution took the form of a boycott of parliamentary elections held in August for Coloureds and Asians. The United Democratic Front (UDF), an alliance of more than 600 affiliated organizations, spearheaded the election boycott campaign. Its members range from the Federation of South African Women to the Council of Unions of South Africa and the Azanian Students Organization. Although the UDF is principally a black political initiative, its membership is multiracial and its ultimate aim is a "united and democratic" South Africa.

Throughout the UDF-organized campaign against the elections, police repression was constant. Activists were harassed and assaulted, pamphlets and petition forms were confiscated and canvassers arrested. UDF-sponsored meetings in a number of areas were banned and rallies were halted at times by violent police raids. On the election days themselves, police used tear gas and batons against demonstrators as well as journalists covering the events.

On the eve of the elections, the South African Government arrested 34 of its critics, mostly UDF leaders or leaders of UDF affiliates, and ordered them detained for six months without charge under the preventive detention provisions of South Africa's security legislation, Section 28 of the Internal Security

Act of 1982. Despite the detentions, the election boycott campaign was highly successful. Only 30 percent of registered Coloured voters and 20 percent of registered Indian voters actually went to the polls. Many eligible voters refused even to register. Therefore, the effective vote in the two elections was approximately 18 percent of all eligible voters.

The Southern Africa Project assisted with a series of legal challenges to the system of preventive detention on behalf of 17 of the UDF leaders detained at the time of the election boycott. These actions included two separate applications brought in the Supreme Court of South Africa's Natal Provincial and the Witwatersrand Local Divisions which challenged the UDF leaders' detention orders as being invalid. The applications, Nkondo & Others v. Minister of Law & Order and Gumede & Others v. Minister of Law & Order, raised important questions regarding the rights of the courts to limit the scope of arbitrary ministerial powers to detain individuals indefinitely and without charge.

When the courts ruled against the challenges, the Southern Africa Project assisted with the consolidated appeal against the decisions. Although the appeal was lost and the detention orders ultimately declared valid by the courts, an earlier application established the right of Section 28 detainees to confidential consultations with their attorney, a ruling which is expected to have implications for hundreds of other political detainees.

During December 1984, the preventive detention orders were withdrawn against eight of the UDF leaders. Each was then charged with high treason and remanded for trial. Most of the remaining UDF leadership were arrested during security police raids on February 19, 1985, and by the end of that month, an additional eight leaders had been charged with treason.

The treason trial of the 16 UDF leaders, State v. Mewa Ramgobin & 15 Others, promises to be the major "show trial" of 1985. The defendants include Mrs. Albertina Sisulu, one of the UDF's three National Presidents; Rev. Frank Chikane, one of the UDF's four Vice-Presidents; Dr. Essop Jassat, UDF Patron and President of the Transvaal Indian Congress; Curtis Nkondo, another UDF Vice-President and Chairman of the Release Mandela Committee; Mewa Ramgobin, UDF National Treasurer; and three high officials of the South African Allied Workers Union--Thozamile Gqweta, Sam Kikine, and Sisa Njikelana.

All 16 remained in jail. Bail applications, financed by the Southern Africa Project, were denied. A provision of the Internal Security Act authorizes the South African Attorney-General, rather than the court, to deny bail to anyone charged with treason when he considers it in the interest of "state security." Refusal to grant bail in effect has removed the UDF leaders from political life for the duration of their trial, which is expected to last 18 months to two years.

The seriousness of the charges against the 16 leaders, the likelihood of a lengthy and costly trial, and the refusal to grant bail indicate the South African Government's determination to destroy the UDF. Because the Southern Africa Project considers the fate of these defendants to be an urgent priority, the Project has established a special UDF Treason Trial Defense Fund and is actively engaged in mobilizing concern about the trial within the American population.

The Southern Africa Project of the Lawyers' Committee also assisted with other cases that arose in connection with the election boycott. In State v. Ntloko & Mbilini, two members of the Queenstown branch of the Azanian People's Organization (AZAPO) were arrested before the election and charged with defacing road signs with posters supporting the election boycott. And in State v. Munroe & 7 Others and State v. Michael Thomas & 4 Others, the defendants were charged with illegal gathering after attending demonstrations showing solidarity with the detained UDF leaders.

The Township Protests

Following the August elections, massive demonstrations occurred in the black townships around Johannesburg. The protests were triggered by increases in rent for state-owned housing units, utility charges, and taxes. The recession, which has led to wage cuts, retrenchment, and price increases for basic commodities, exacerbated the impact on a population already poverty-ridden.

Much of the anger was targeted at township councilors, empaneled pursuant to the Black Local Authorities Act of 1982. The Act, an element along with the new constitution in President Botha's much-vaunted package of reforms, granted to government-backed African officials in the black townships the authority to manage public services in those areas. However, the new township councils, which must implement the established Nationalist Party policies, were given no access to new revenue sources. Having no industrial tax base, the local authorities must raise revenue from those least able to pay taxes--the township residents. The township councils therefore serve as scapegoats, absorbing the blame for a situation that they did not create and could not solve.

In September, the councilors became live targets of anger from fellow township residents. The new financial demands on township residents coupled with bitterness over the new constitution sparked the worst outbreak of violence since the Soweto protests of 1976.

Police responded to the rent protests with live ammunition, rubber bullets, tear gas, birdshot, whips, attack dogs, and billy

clubs. The army was regularly used in conjunction with the police, and one combined operation in October involved over 7,000 police and armed forces who conducted house-to-house searches in the townships. In a report on police conduct during the township protests, released by the Southern African Catholic Bishops' Conference, the authors referred to

an alarming carelessness or disregard for the people, property, feelings and even lives of the inhabitants of South Africa's black townships [on the part of the police] . . . [their] behavior in the townships [between August and November, 1984] resembled that of an occupying foreign army controlling enemy territory by force without regard for the civilian population and, it appears, without regard for the law.

By the end of the year, more than 150 people had died in resulting clashes with police, and by the end of March 1985, the toll had risen to a total of nearly 280.

There was also widespread and indiscriminate detention of black township residents. Many of those detained were 12- to 16-year-old children held for such offenses as shouting black power slogans, showing a black power salute, or merely joining a group in voicing their disapproval of police and army action. For example, hundreds of black township residents were arrested at the September funeral of a 22-year-old man killed earlier that month in the unrest. Many of those arrested were children, and virtually none of the defendants could afford the cost of an attorney. When over two hundred of the residents were charged with illegal gathering, the Southern Africa Project financed their successful defense in the case of State v. Zacharia Sekade & 204 Others.

The Southern Africa Project also assisted with the defense of other black township residents charged with public violence and similar offenses in connection with the unrest. In State v. Hezekiel Nkutha & 5 Others, all of the teenaged defendants except 13-year-old Nkutha were acquitted of public violence. Nkutha, who was shot by police before his arrest, has appealed his conviction. In State v. Sibeko & 3 Others, charges of public violence and arson were ultimately withdrawn against the defendants, all high school students. The Southern Africa Project also financed the defense in several other cases in which the defendants were charged with public violence in connection with the township protests: State v. Johannes Mokayane, State v. Mtumkulu, Mhlanga & Monoka, State v. Malope & 3 Others, and State v. Kheswa, Kweleni & Mosilela. In addition, the Southern Africa Project is assisting with over 20 civil actions for damages being brought against the South African police for wrongful detention of and assault on township residents during the protests.

The School Boycotts and Other Student Protest

Close to one million students boycotted classes in 1984, demanding far-reaching reforms in the education system. Primary among the demands were free and appropriate textbooks, qualified teachers (69 percent of those who teach black children have not finished high-school level), democratically-elected student representative councils, and an end to excessive corporal punishment.

This wave of school and university boycotts which started in 1983 was characterized in 1984 by the linking of student demands to broader community issues. Accordingly, student protests also focused on a rejection of the government's constitutional "reforms." On the days of the Coloured and Indian parliamentary elections, as many as 650,000 students boycotted classes.

The government responded with what is now viewed by black South Africans as typical brutality. Schools were closed indefinitely or classes suspended. Police invaded schools and university campuses. Thousands of students were detained, arrested, or injured and some were killed in clashes with police. Thirty-six students at one high school were injured when they jumped from a second-floor balcony to escape from police wielding batons inside their classrooms. In Daveyton, students were meeting in a schoolyard when police surrounded the school. Ignoring a request by the principal to leave, the police attacked, firing birdshot and tear gas canisters. A Pretoria inquest court found that a female student had been killed at her school gates by a police car.

Leaders of the Congress of South African Students (COSAS), which was largely responsible for organizing the nationwide school boycotts, were hounded by security police. The house of COSAS national president, Lulu Johnson, in Port Elizabeth was firebombed. In Soweto, the secretary of the COSAS branch there, Bongani Khumalo, was killed by police after leaving the home of a friend and fellow COSAS member. A few days later his brother, COSAS national secretary-general, was beaten by police. Almost all members of the branch executive committee were later detained, as were numerous COSAS leaders and members in other parts of the country.

During the first half of 1984, at least 4,000 students in the Cradock area boycotted classes. The situation deteriorated after the dismissal of Mathew Goniwe, a well-liked mathematics teacher and leader of the Cradock Residents Association (CRADORA). CRADORA, a civic organization, had been instrumental in opposing rent increases during 1983. Student protest grew more intense when Goniwe was detained on March 30, 1984, along with three other leaders of CRADORA under the preventive detention provisions of South Africa's Internal Security Act. Two days later, 49 students were arrested while attending a church

youth meeting called in conjunction with the school boycott. The students, who ranged in age from 10 to 21, were charged with (1) illegal gathering under Section 2(b)(1) of the Riotous Assemblies Act, No. 17 of 1956; and (2) incitement of other students to boycott schools. The minimum sentence upon conviction of illegal gathering is two years' imprisonment, and the minimum sentence upon conviction of incitement is five years' imprisonment. Juveniles may be sentenced to receive corporal punishment instead.

The case of State v. Sizwe Goniwe & 48 Others collapsed when the policemen called as state witnesses were unable to identify the student defendants during their July 1984 trial. All of the defendants were acquitted of both charges. The Southern Africa Project financed their defense.

The increasingly repressive regimes of the bantustan authorities were the focus of boycotts by university students during 1984. For example, after three members of the University of the Transkei (Unitra) student representative council were detained by security police in May, Unitra students boycotted lectures, demanding that the university administration cease its collaboration with state security. Transkeian policemen attacked the boycotting students with batons, detained about 140, and deported four Unitra lecturers sympathetic to the boycott. In a test case financed by the Southern Africa Project, two of the detained students brought civil actions for damages for unlawful detention. Those actions were successful. The emergency regulations under which the Transkei government purported to have been acting were not in force at the time of the boycott. As plans were made to bring another 138 applications for unlawful detention, the Transkei Minister of Justice introduced an Indemnity Bill which would prohibit civil or criminal proceedings against Transkeian authorities, including the police or armed forces, for acts made in "good faith" for the prevention of "internal disorder" either before or after the commencement of the Act. If passed, the Bill would preclude any further actions.

Even students not directly involved in the boycott have been arrested. In October, 53 students between the ages of 10 and 20 were charged with public violence and illegal gathering. The students, who attend Senaoane High School near Moroka, had jeered at an armored police carrier patrolling the township. The police responded by firing automatic rifles into the playground, injuring several of the students. Police claimed the teenagers provoked the brutality by throwing stones at the armored car. During their February 1985 trial, State v. Simon Ramagaga & 52 Others, all of the students were found not guilty and released.

In addition, the Southern Africa Project assisted with two cases involving students charged with participation in commemorations of the 1976 Soweto uprising, during which hundreds of schoolchildren were killed while protesting the separate and unequal school system. In State v. Joseph Valashiya, an 18-year-old Soweto student was found not guilty of public violence during the June 16th commemoration of 1983. By the time of Valashiya's trial in March 1984, charges brought against 19 other students detained with Valashiya had been withdrawn. And in State v. Bonakele Nopondo & 27 Others, 28 students from the Graaff-Reinet area were charged with illegally gathering for a June 16th commemoration during which three people were shot by police.

TRADE UNIONS v. APARTHEID

During 1984, the independent black trade union movement continued its role as a leading force in the struggle against apartheid. South African workers participated in more strikes in the first half of 1984 than in all of 1983, including one strike in which sixteen black miners were killed by the police. After the South African Government deployed the military to conduct searches in the black townships in the Transvaal, over half a million workers walked off their jobs in protest on November 5 and 6, 1984, including 90 percent of the work force in the black townships south of Johannesburg. South Africa's industrial heartland was brought to a near standstill. That general strike, dubbed a "stay-away," has been called one of the biggest political strikes in South Africa's history.

The strike was organized by the Transvaal Regional Stay-Away Committee at the urging of the Council of South African Students (COSAS). The stay-away organizing committee included three of the major union groupings, including the 150,000 member Federation of South African Trade Unions (FOSATU), which allied themselves for the first time with the UDF. Among the unions joining the strike call were the Council of Mining Unions and the Metal and Allied Workers Union.

The demands set forth by the stay-away committee reflected issues far broader than traditional trade union concerns; they expressed the generalized grievances with apartheid held by the community as a whole. Those demands included withdrawal of army troops and police from the black townships, resignation of the township councilors, withdrawal of rent and bus fare increases, release of detainees and political prisoners, reinstatement of dismissed workers, and establishment of student representative councils.

In some areas, the stay-away was marked by rioting and police shootings. Twenty-three people died as the police made extensive use of rubber bullets, bird shot, and tear gas.

Several stay-away committee members and labor leaders were detained, including FOSATU president Chris Dlamini, Council of Unions of South Africa general secretary Piroshaw Camay, and COSAS executive officer Tsiki Mashimbye. Five others have been charged with subversion in connection with their role in the stay-away, including labor leaders Moses Mayekiso and Themba Nontlantane. In addition, Sasol, a state-owned synthetic fuel plant, fired 6,000 workers, approximately 90 percent of its black work force, for joining the stay-away.

In explaining the South African Government's reaction to the strike, Home Affairs Minister Frederick W. de Klerk said the government would not tolerate "destabilizing activity" in any sphere, including labor relations. He attributed the strike to "instigators, arsonists, and radicals," and declared that unions should keep out of politics.

Government harassment of trade union activists took many forms, including the banning of union meetings. Union members, organizers, and officials were detained under security legislation, charged with entering townships without permits, or arrested for illegal gathering, intimidation or public violence.

In State v. Leonard Dladla & 4 Others, the Southern Africa Project financed the successful defense of five members of the Insurance Assurance Workers Union of South Africa (IAWUSA) charged under the 1982 Intimidation Act, a statute specifically aimed at impeding union organizing. Prior to striking against their employer, Liberty Life Insurance, the union had been refused recognition by the company. As the trial began, the charges of intimidation were withdrawn.

Black trade unions also face harassment in the South African-controlled bantustans. In the Ciskei, where labor is the major export to the surrounding "white" areas, the South African Allied Workers Union (SAAWU) enjoys strong support in the black township of Mdantsane for winning employer agreements in the nearby industrial city of East London. Charging that SAAWU had organized a boycott of the state-owned bus company to protest higher fares, the Ciskei bantustan authorities detained most of its leaders and banned the union. In State v. Mtutuzeli Bago, the Southern Africa Project assisted in the defense of a SAAWU organizer detained in the Ciskei and charged with membership in a banned organization. In addition, the Southern Africa Project financed a challenge to SAAWU's banning order heard in the Ciskei Supreme Court: SAAWU v. The Ciskei Government. The court has reserved judgment indefinitely in the case, a common occurrence when governmental authorities are involved.

The future role of the Industrial Court, and in particular its right to reinstate fired workers, was at stake in the crucial case of Metal and Allied Workers Union (MAWU) v. Barlows Manufacturing Company. During a work stoppage called by MAWU at a Barlows plant, several union members were arrested and charged with intimidation. Prior to a court decision on the criminal charge, Barlows fired the workers. The company refused to rehire them even after their acquittal. The union, with the support of the Southern Africa Project, brought the matter to the Industrial Court, arguing that Barlows had committed an unfair labor practice by firing workers who had been charged with but not convicted of a crime. Barlows maintained that it was outside the jurisdiction of the Industrial Court to order reinstatement of dismissed workers.

Following the workers' acquittal, Barlows entered into negotiations for settlement of the matter. When Barlows insisted that the workers attend a company inquiry into their conduct, the workers demanded that they attend the inquiry as employees, not as dismissed workers. Barlows agreed. The company later offered an out-of-court settlement to the workers of one year's salary plus a lump sum, which the workers accepted.

In another case involving unfair labor practices, the Southern Africa Project financed the application of the Amalgamated Black Workers Union (Amalgam) to the Industrial Court to order reinstatement of 17 union members formerly employed by the Everlast Furniture Manufacturers Company. All shop stewards of the union were fired when they presented company officials with a petition requesting recognition of the union. After the firings, Everlast announced that the dismissed workers would be considered for reinstatement only if they left Amalgam and joined a rival union more sympathetic to Everlast. Forcing workers to join a certain union as a condition of employment effectively contradicts the principle of freedom of association as set forth in Section 78 of South Africa's Labor Relations Act. The decision of the Industrial Court in Amalgam v. Everlast is still pending.

Both MAWU v. Barlows and Amalgam v. Everlast raise important questions regarding the right of black workers to organize in South Africa. The right of black people to remain in urban areas in South Africa is largely linked to their employment. With the exception of those few Blacks born in urban areas, the Blacks (Urban Areas) Consolidation Act allows most Blacks to remain in urban areas no longer than 72 hours unless they are employed there, have worked for one employer continuously for 10 years, or are married to someone with such rights. Other provisions of the Act state with greater clarity that Blacks are welcome in white urban areas only when their labor is required. For example, Section 28 authorizes "removal of redundant Blacks from urban areas," and Section 29 establishes, in effect, that any Black who is "idle" may be punished by a maximum of two years' detention in a farm colony or by deportation to "any rural village" in the bantustans. The threat of losing residential rights is an effective deterrent to participation in any industrial action which may result in dismissal.

Another deterrent to union organizing is that workers who live in the bantustans and commute daily to work in the "white" areas bordering the bantustans are subjected to two sets of labor laws: South Africa's Labour Relations Act and the bantustans' own labor legislation and regulations. Although the Labour Relations Act tolerates some union activity, often the bantustan's South African-controlled authorities will ban unions outright.

For example, the town of Brits is located in the industrial border area between Bophuthatswana and "white" South Africa. After Bophuthatswana was declared "independent," several compa-

nies moved to this border area. Labor costs are cheaper there than in the urban areas because the limited options faced by poverty-ridden bantustan residents relegate them to accepting lower wages. Since "independence," workers in the area have been divided into two groups: those who commute between Bophuthatswana and Brits, and those who have residential rights in Brits under the provisions of the Blacks (Urban Areas) Consolidation Act. A Brits resident who is a union member, if "idle" during a strike, may be deported to Bophuthatswana under Section 29 of the Urban Areas Act. The deported worker would thereby lose residential rights in Brits. In addition, because Bophuthatswana officials have reportedly declared that South African trade unions, being "of another country," are not permitted to operate in Bophuthatswana, once that worker has been deported to the bantustan, continued union activism could lead to arrest for membership in a banned union.

More commonly, however, union members and organizers have been harassed with charges of trespass and pass law violations. The Southern Africa Project financed the defense in a case in which an organizer for the Metal and Allied Workers Union (MAWU) was arrested by security police and charged with trespass and failure to produce a valid pass book on demand when he came into Brits to negotiate with company management regarding a strike. Workers there had conducted the work stoppage in support of a MAWU member who they believed had been unfairly dismissed. Subsequent to the arrest of the union official, police also charged the dismissed worker with trespass and invalidated his pass book, thereby subjecting him to possible deportation. Both defendants in the case of State v. Modimoeng & Ntutwana were subsequently acquitted.

OPPOSITION FROM BANNED ORGANIZATIONS

The charge of high treason, usually considered the ultimate political offense, has become common in South Africa. In the past, the government tended to charge its political opponents with lesser statutory offenses such as terrorism, sabotage, or furtherance of the aims of a banned organization such as the African National Congress (ANC). However, these lesser offenses have increasingly been made "alternative" charges to a main charge of high treason, a capital offense.

Between World War II and 1979, the South African Government held only one treason trial in which 156 defendants were acquitted for lack of evidence after five years of proceedings. Even in the famous Rivonia Trial of 1963-64, ANC leaders Nelson Mandela and Walter Sisulu were sentenced to life imprisonment for sabotage, not treason. This pattern began to change in 1979, when 12 members of the ANC were convicted of high treason in a single trial. From 1980 through 1983, 37 people were charged with treason and tried in 15 separate trials. In the first four months of 1984 alone, 16 people were fighting charges of treason, and by the year's end a record number of 13 people had been convicted.

The charge of high treason is now applied to nearly any form of opposition, whether violent or non-violent. Not only is mere membership in a banned organization sufficient grounds for conviction of high treason, but the South African Government is now charging members of lawful organizations with treason. Sixteen leaders of the United Democratic Front (UDF) will be tried for treason in 1985 for their role in the boycott of the elections for "Coloured" and Asian parliamentary representatives.

The defendants in the treason trial of State v. Hunter & 2 Others defied the stereotype of a "terrorist" held by most white South Africans. All were white and middle-class. Roland Hunter, a military clerk, and his two alleged accomplices, Derek and Patricia Hanekom, were arrested in December 1983 and charged with high treason and alternative charges under the Internal Security Act, the Protection of Information Act, and the Publications Act.

At issue in the Hunter case was South Africa's effort to destabilize its neighboring countries. Hunter, who was serving his compulsory two years of military service in a branch of the South African Defense Forces' military intelligence unit, allegedly was part of a team that provided arms and equipment to organizations such as the Lesotho Liberation Army and the Mozambique National Resistance Movement which are engaged in attempts to overthrow the governments of those countries. The South

African Government claimed that the Hanekoms had assisted Hunter to make contact with the ANC in order for Hunter to pass on direct evidence of the government's role in financing and training rebel groups in Mozambique, Zimbabwe, and Lesotho as part of its campaign to destabilize the frontline states in the southern African region. The evidence of South Africa's training and use of surrogate forces in the region was reported to be "overwhelming."

The South African Government took steps to ensure that the details of its involvement did not emerge in open court. The military sought and obtained a court order which declared that the documents listed in the indictment which Hunter allegedly obtained during his military service should be treated as secret. Consequently, neither the defense nor the prosecution attorneys were allowed access to the documents.

This turn of events weakened the state's case to the extent that the treason charge was withdrawn. Negotiations on the case between the state and the defense attorneys proceeded in secret and little information was published about the trial. After a hearing held in camera on September 24, 1984, the court announced that Hunter had been convicted under the Defense Act of publishing defense secrets, and the Hanekoms had been convicted of possession of literature published by a banned organization and other similar charges under the Internal Security Act and the Publications Act. Hunter was sentenced to five years' imprisonment, and Derek and Patricia Hanekom were sentenced to 2 years, and 3 years and 2 months, respectively. The Southern Africa Project financed the defense in State v. Hunter & 2 Others.

Two other treason trials supported by the Southern Africa Project involved alleged ANC activities. In State v. Mhlanza & 3 Others, two of the defendants, Norman Mhlanza and Enoch Nthombeni, were 17 and 15 years old, respectively, when they left South Africa for Swaziland after the 1976 uprising in Soweto. They were accused of joining the ANC, undergoing military training in Zambia and Angola, and returning to South Africa to sabotage targets such as an electricity substation near Vereeniging. Mhlanza and Nthombeni were convicted and sentenced to 12 years' imprisonment for bombing the electricity station. Their co-defendants, Jabulani Makhubu and Samuel Myeni, received effective 18-month sentences for furthering the aims of the ANC by aiding Mhlanza and Nthombeni to commit sabotage.

In the other ANC treason trial, State v. Duma Gqubule & 2 Others, the defendants were accused of recruiting members for the ANC and of bombing the Supreme Court Buildings in Pietermaritzburg during March and April 1983. Sithabiso Edgar Mahlobo and Benedict Anthony Duke Martins were charged with carrying out the bombings. Gqubule, a 19-year-old minister's son whose defense was financed by the Southern Africa Project, was accused of aiding Mahlobo and Martins by giving them accommodations. One of

the state witnesses, Dr. Mvuyo Tom, was sentenced to three years' imprisonment for refusing to testify. Mahlobo complained of torture, including "all kinds of assault, from physical mishandling to psychological." Nevertheless, on May 21, 1984, Mahlobo was sentenced to 20 years for treason, and Martins was sentenced to 10 years for terrorism. The court sentenced Gqubule to a 30-month suspended sentence for taking part in ANC activities.

Albertina Sisulu and Thami Mali were also accused of ANC activities. Sisulu is the 66-year-old wife of Walter Sisulu, the ANC leader serving a life sentence with Nelson Mandela in Pollsmoor Prison. Mali is a community organizer and teacher. Their offenses included singing ANC songs at the 1982 funeral of former ANC member Rose Mbele, distributing ANC pamphlets and stickers, and draping Mbele's coffin with an ANC flag. After a lengthy trial at which they were found guilty, Sisulu was given an effective two-year prison term and Mali five years. The Southern Africa Project funded the defense in State v. Albertina Sisulu & Thami Mali.

Both Sisulu and Mali were released on bail in February 1984 pending the outcome of the appeal against their conviction and sentence. More recently, Mali was charged with subversion in connection with his role as chairman of the Transvaal Regional Stay-Away Committee which called a two-day general strike in November 1984. Albertina Sisulu was arrested again in February 1985 and charged with treason for her leadership role in the United Democratic Front.

In two other 1984 political trials assisted by the Southern Africa Project, the South African Government attempted to demonstrate that banned organizations have infiltrated and are directing the activities of otherwise lawful and peaceful groups. The government can thereby justify its harassment of any organization that becomes a vehicle to express the political sentiment of the black population. In State v. Mokoka & Dau, two members of the South African Allied Workers Union (SAAWU) were accused of being ANC members, possessing ANC publications, and furthering the aims of the ANC. After being tried separately, defendant Kgomotso Gabriel Mokoka was acquitted; defendant Ramano Gerald Dau was convicted and given a 12-month suspended sentence.

In State v. Regan Shope, state witnesses alleged that the South African Council of Trade Unions (SACTU) is a front organization for the ANC, and that the ANC and the United Democratic Front (UDF) have the same goals. Regan Shope, a 34-year-old widow with four children and a UDF executive committee member, was detained at the Botswana-South Africa border with ANC literature in her possession. After five months in detention, she was charged with being a member of the ANC, recruiting members for the ANC, keeping a dead letter box for transmission of messages from South Africa abroad, and possession of banned literature. Her father, Mark Shope, fled South Africa in the 1960s to avoid

being charged and tried with Nelson Mandela. At that time he was SACTU's general secretary and a key figure in the ANC before it was banned.

In late January 1985, Shope was found guilty of all charges and sentenced to three years' imprisonment. One state witness-- Emma Ntimbane, Regan's cousin--was given a one-year jail term for refusing to testify.

The defendant in State v. Thomson Ramanala was accused of being a member of and furthering the aims of the ANC merely because he was arrested with banned literature published by the ANC in his possession. A 25-year-old hospital clerk from Saulsville near Pretoria, Ramanala faced a maximum sentence of 10 years' imprisonment upon conviction. On January 31, 1984, he was found guilty of possession of banned literature only and sentenced to six months' imprisonment. The Southern Africa Project assisted in Ramanala's defense.

The Southern Africa Project also financed the successful defense in another case involving possession of banned literature in State v. Mbilini. Mncedisi Mbilini is the Queenstown branch secretary of the Azanian People's Organization (AZAPO), an organization which subscribes to the principles of Black Consciousness as propounded by the late Steve Biko. Mbilini was arrested during an April 1984 raid on his home in which the security police confiscated several documents, mostly AZAPO literature. He was subsequently charged with possession of a banned publication on "Bantu Education" and distribution of an "undesirable" publication called "The National Forum." At Mbilini's July 1984 trial, the court found that the "banned" publication on "Bantu Education" had actually been declared "undesirable," which does not outlaw possession. The court also found that Mbilini had distributed "The National Forum" before distribution of that publication had been banned. He was acquitted, therefore, of both charges.

TORTURE AND DEATHS IN DETENTION

The record of South Africa's security police is one of recurrent use of various forms of torture against persons detained under statutory provisions that prevent public scrutiny and deny detainees elementary judicial protection. South Africa's system of incommunicado detention without charge or trial establishes the conditions for torture of political detainees.

Allegations of maltreatment and torture of political detainees held under South Africa's draconian security legislation are commonplace. The allegations, made by defendants, state witnesses and detainees, have been detailed and consistent. Upon examination of these allegations and the physical evidence of brutality, the pattern that emerges is that of torture routinely used by the security police during interrogations, especially in order to extract confessions.

Various methods of torture have been described: electric shocks to the body, being made to assume a sitting position without the support of a chair (the "invisible chair"), wearing shoes containing small stones for long periods of time, driving nails through the genitals of males, deprivation of sleep, food and toilet facilities, prolonged interrogation, psychological disorientation through long-term solitary confinement, hooding and suffocating, choking, arduous physical exercise and common assault such as slapping, kicking, beating with hosepipes and sticks, crushing of toes and banging of detainees' heads on walls and tables.

During 1984 alone, five persons believed to have been held under various South African security laws have died in detention under suspicious circumstances. This brings the total figure for deaths in detention to at least 65 since South Africa's introduction in 1963 of incommunicado detention.

Johannes Ngalo was one of those five political detainees who died in detention in 1984. Detained in the black township of Tumahole during a July protest against rent increases during which 1,000 youths were tear-gassed by police, Ngalo was found dead in his cell the following morning. The post mortem ascribed his death to serious internal injuries. Although the South African press reported that eye witnesses saw policemen hitting the victim several times, the police claimed instead that Ngalo was attacked by a civilian prior to his arrest. No one, police or civilian, has been charged with his murder. With the assistance of the Southern Africa Project, Ngalo's family has instituted a civil action for damages for wrongful death against the Minister of Law and Order, Ngalo v. Minister of Law and Order.

South Africa has no effective legal mechanisms to prevent the torture of political prisoners by the security police. Indeed, its Criminal Procedure Act encourages efforts to secure confessions by any means, because it reduces the prosecution's burden at trial once a confession is introduced into evidence. Under Section 217 of the Act, a confession is admissible only when it is made before a magistrate and reduced to writing by him. When such a confession is introduced in a trial, there is a presumption that it was freely and voluntarily made. On its face, this provision does not necessarily require a divergence from due process. However, in the context of a political trial in South Africa, the procedure too often has the practical effect of shifting to the defendant the onerous burden of proving his or her innocence where it normally rests with the state to prove the defendant's guilt.

The presumption of the voluntary nature of the confession applies even though, under current South African law and practice: (1) the magistrate is not permitted to be present during police interrogation of a suspect and can, at best, determine only indirectly whether an individual brought before him for the purpose of confessing has been physically or psychologically abused; (2) in practice, magistrates do not always make effective inquiry into the conditions of detention or the occurrence of torture; and (3) since the law authorizes indefinite incommunicado detention, a suspect can be detained and a trial postponed until any physical evidence of torture has healed. South Africa's security laws and the practices under the authority of those laws often effectively deny a defendant access to corroborative evidence necessary to rebut the presumption. A regime using torture to extract confessions can thus proceed without effective check.

Civil actions for damages for assault brought by former detainees against the security police also face serious obstacles. Section 32 of the Police Act, which establishes a six-month statute of limitations on the commencement of such actions has been interpreted to run from the time of the police assault on the detainee. Since the law authorizes indefinite incommunicado detention, the detainee could be held until the six-month period had elapsed, barring any potential law suit. With the assistance of the Southern Africa Project, the plaintiff in the case of Maseko v. Minister of Police and Prisons challenged that interpretation of when the statute of limitations should properly begin to run in such suits.

For seven months, Eliot Maseko was held incommunicado under Section 6 of South Africa's now-repealed Terrorism Act. He, along with several others detained with him, was severely assaulted by the security police. For example, he alleged that on at least one occasion during his seven months in detention, his interrogators placed a bag over his head and tightened it around

his neck, causing him to lose consciousness. He was also threatened several times with death.

Maseko's attorneys will argue that a detainee's cause of action arises for the first time only after the detainee has a right of access to a tribunal with jurisdiction to entertain his claim. Since Section 6 of the Terrorism Act precludes a detainee from having access to the court during the period of his detention, the six-month statute of limitations must begin to run only at the time of the detainee's release. The case of Maseko v. Minister of Police and Prisons is expected to come to trial in 1985.

All but one of the accused in the case of State v. Rufus Nzo & 10 Others, supported by the Southern Africa Project, gave testimony regarding police assaults during their two months in detention under Section 29 of the 1982 Internal Security Act. Alleged to be ANC members who had undergone military training in Lesotho and Angola, the defendants faced a main charge of high treason and alternative charges of terrorism and sabotage in connection with the bombing of several buildings and a railway line between Port Elizabeth and Uitenhage from 1981 to 1983.

During the "trial within a trial" to test the admissibility of the defendants' confessions, one of the defendants, Vukile Tshiwula, testified that a security policeman had threatened that he would join his dead wife if he did not cooperate. Tshiwula testified further that when he told a magistrate of the assaults, the magistrate had replied that he was not interested in "old complaints." Two other defendants, a father and son named Mzimkulu and Mzayifani Kame, testified that they had been forced to make statements to a policeman. Mzimkulu Kame also testified that he had been told what to say before the magistrate.

Visits by district surgeons to the Nzo defendants while in detention seemed to offer no protection against police assault. In testimony, the Humansdorp district surgeon, Dr. Delport, stated that when he had seen Rufus Nzo during his detention in May 1983, the defendant was suffering from severe shock due to head injuries. However, Dr. Delport claimed that Nzo had spoken earlier of suicide and inflicted these injuries on himself. Dr. Tucker, Port Elizabeth's principal district surgeon, testified that the extensive bruises he saw on defendant James Ngqondela could not have been sustained accidentally, and admitted that he failed to inquire further at the time into Ngqondela's injuries.

The court ruled that, although several statements made by the accused to policemen had not been shown to have been made freely and voluntarily, statements made to the magistrate were admissible as evidence against the defendants. In December 1984 after a ten-month trial, seven of the defendants were convicted of treason and the remaining four were convicted of the alternative charges of terrorism. Two defendants were sentenced to 25

years' imprisonment, and prison sentences for the others ranged from 2 to 14 years.

The defendant in the State v. Lawrence Ntikinca also testified that he had received brutal physical assaults while being interrogated in detention. Detained in the "homeland" of Transkei, Ntikinca told of having his genitals squeezed with pliers by Transkeian and South African security police, being "tortured with a rope," and being subjected to electric shocks. He stated that his interrogators forced him to admit knowledge of things and events which he actually did not know. Nevertheless, he was sentenced by the Chief Justice of the Transkei Supreme Court to four years' imprisonment for furthering the aims of the banned Pan Africanist Congress (PAC). Ntikinca instituted a civil action for damages against two members of the Transkei security police, and lodged an appeal against his conviction. On August 6, 1984, his appeal was denied. The civil action is still pending. The Southern Africa Project provided financial assistance for the Ntikinca appeal.

In another case of death in detention, the Southern Africa Project assisted the family of a deceased political detainee to be represented by legal counsel at the inquest. When Tembuyise Simon Mndawe was detained in February 1983 in the eastern Transvaal, he had in his possession a machine gun, ammunition, and literature from the African National Congress (ANC). He was found dead in his cell two weeks later. The commissioner of police claimed Mndawe hanged himself after having made a confession to a magistrate. A Johannesburg pathologist conducted a post-mortem in the presence of a state pathologist. Their medical report stated that Mndawe had been assaulted in detention and had suffered a broken cheekbone.

The Mndawe Inquest took place between November 1983 and September 1984. Evidence submitted in the proceedings showed that during his detention, on February 23, 1983, Mndawe had complained to a magistrate of being assaulted by security police and of having had a continual headache since that assault. Mndawe was then examined by a Dr. Viljoen in the latter's capacity as district surgeon. Dr. Viljoen, who allowed two security policemen to remain during the examination, later filed a medical report which made no mention of a broken cheekbone. Mndawe was not x-rayed until more than a week later when he was visited by an inspector of detainees.

A psychologist's report stated that, although Mndawe had complained to persons he saw as authority figures about having been assaulted by the security police, the failure of those authority figures to alleviate Mndawe's pain may well have been construed by Mndawe as hostility. According to the report:

[Mndawe's] custodians gave little consideration for his physical, emotional or psychological

well-being. He could quite conceivably have interpreted the situation as...threatening to himself. The pain suffered by [Mndawe] could also have...caused stress resulting in [him] taking his own life.

In January 1985 the inquest magistrate found that Mndawe had committed suicide. In addition, he found Dr. Viljoen's conduct questionable and ordered him reported to the South African Medical and Dental Council for possible disciplinary action. The magistrate, however, failed to criticize the conduct of the security policemen who assaulted the detainee.

GRAND APARTHEID: THE HOMELANDS

Official South African governmental policy has the entire black population allocated to ten tribal homelands (bantustans)-- a total area of 14 percent of South Africa's land--despite the fact that the vast majority do not live there and have expressed no desire to be identified with those territories. The South African Government intends to strip its black citizens of their nationality by relocating them, often at gunpoint, to the homelands and then declaring those areas "independent," as they have already done with the Transkei, Bophuthatswana, Venda, and the Ciskei. The practical meaning of this "independence" is that nearly 8 million South Africans have been declared by the South African Government to be aliens in their own land.

The international community properly refuses to recognize the homelands because they were created against the wishes of the majority of the affected Africans and therefore violate the fundamental right of the South African people to self-determination. The homelands are not independent states, but creatures of the South African Government, on which they are totally dependent. Racist in concept and in practice, the homelands violate the fundamental proscriptions of international law against both racial discrimination and involuntary denationalization.

There was evidence of unrest in every bantustan during 1984. Reports from the Transkei and Venda showed rural resistance provoking the most severe repression. In the Transkei, the year began and ended with mass detentions, including two hundred residents of the Engcobo district who were detained for rejecting a bantustan official, and another 140 University of Transkei students detained during a boycott of lectures. At least two people died in detention in the bantustans: Samuel Tshikhudo in Venda, and Mxlolisi Sipele in the Transkei. Resistance in the bantustan urban areas included the Mdantsane bus boycott in the Ciskei which, despite continuing detentions and assaults on boycotters, was still in force at the end of the year.

In response, in part, to these events, the Southern Africa Project assisted (a) "black spot" communities resisting removal to the homelands; (b) the KaNgwane homeland which fought a South African Government proposal to cede it to South Africa's neighbor, Swaziland; (c) defendants arrested during the Mdantsane bus boycott in the Ciskei; and (d) the victims of police brutality in the Transkei.

Forced Removals

Forced removals are an integral component of the homelands policy. Approximately 3.5 million South Africans have been forcibly relocated to the bantustans to date, and over two million more have been designated for relocation in the future. Urban Blacks face removal as a consequence of the abolition of townships, eviction from squatter settlements, and application of the influx control laws and the Group Areas Act. Rural residents who are forcibly resettled in the homelands are especially hard hit. Farm evictions totaling more than one million constituted the largest category of forced removals from 1960 to 1982. The isolation of rural Blacks makes them vulnerable to the harshest methods used in forced removals: termination of bus service, poisoning of water supplies, denial of work permits in urban areas, impounding of cattle and other sources of livelihood.

Others forcibly resettled in the homelands come from what the South African Government refers to as "black spots," which are land areas lawfully owned and usually well developed by Blacks, and which the government now claims for ownership by Whites. South Africa once had a significant number of black landowners. Many held title prior to the passage of the 1913 Land Act, which prohibited Blacks from owning land outside those areas designated by the white government as "native" reserves. Then, a 1927 law empowered the government to relocate Blacks in furtherance of the scheme of territorial segmentation of the population along ethnic lines. While compensation is offered by the government, the amount varies widely and in some cases has been as little as \$20 per person. The government relocated over 300,000 black spot residents between 1970 and 1979, and has plans to relocate many more. In Natal Province alone, at least 202 "black spots" are slated for future removal.

Magopa had been a largely self-reliant community before the South African Government designated it as a "black spot" and ordered its residents to leave the land they had purchased 70 years ago and move 80 miles away to the "homeland" of Bophuthatswana. The villagers' resistance was met with harsh tactics. In January 1984, evictions proceeded at gunpoint. The village was cordoned off by police. Bulldozers moved into the village and demolished the houses, schools, four churches, and the clinic. Diesel fuel was poured into the water sources and government officials removed the pumps which provided the village with fresh water. Families' possessions were thrown indiscriminately into trucks. Village leaders were handcuffed and dragged onto vans. Parents and children were separated. And cattle, the wealth of the villagers, were either left to roam free or sold for a pittance to white farmers.

On the first anniversary of the removal of the Magopa villagers from their ancestral land, they told the Johannesburg Star that life is hard in the bantustan resettlement camp to which

they were deported. They have no land to plow and the government pensions for the old and sick have been terminated. The people still speak of Magopa as home. One woman explained, "Although I live here [in Bophuthatswana], I am not a lady of this place."

In 1983, prior to the destruction of the Magopa village, the Southern Africa Project financed an application to the Supreme Court (Transvaal Provincial Division) to have the removal order declared as being ultra vires the State President's authority under the Black Administration Act, No. 38 of 1927. The application failed. In 1984, the Southern Africa Project financed a petition for leave to appeal the Magopa removal order, which the Appellate Division of the South African Supreme Court has granted to be heard sometime in mid-1985. Because the village land has already been expropriated, it is unlikely that the Magopa people will be allowed to return to their land even in the event of a victory in the courts. However, a favorable outcome would protect some 100 communities which are presently in a similar position.

Although the South African Government recently announced a suspension of forced removals, in announcing the suspension, the government minister in charge of black affairs, Minister of Cooperation Gerrit N. Viljoen, said that these communities can still be evicted in a "negotiated" removal if their chiefs agree. What he failed to mention was the statute which empowers the Minister of Cooperation to appoint the acting chief of an African "tribe." Viljoen stated that he considered Magopa to be a "negotiated removal" because the man the government recognized as the community's chief had given his consent.

The people of KwaNgema fear that the same may happen to them. The KwaNgema community in eastern Transvaal Province lives on land given to them more than a century ago by the King of England, then colonial ruler of South Africa. Targeted for removal to an overcrowded bantustan resettlement camp 100 miles away, they have mounted a spirited resistance to the expropriation of their land. The Ngema Committee, a leadership body democratically elected by the community, led the resistance. When government officials realized that the committee would not cooperate with the removal, they withdrew recognition of the committee and embarked on private negotiations with one individual. A discredited figure in the community, Cuthbert Ngema, who had already indicated his acquiescence in the government's plan to evict the community, was named acting chief in November at a private meeting of eight relatives held in his own home. The South African Government, two of whose officials attended the private meeting, officially recognized the election.

The Southern Africa Project financed a law suit, filed by the Ngema Committee, to have Cuthbert Ngema's appointment declared invalid. The committee sought an urgent injunction to prevent Ngema from occupying the post until the case could be

heard. The request for an injunction was denied. Cuthbert Ngema's installation by the government as chief was beyond challenge because of the clear statutory grant of authority to the government to appoint the chiefs of African tribes. Lawyers acting for the community, therefore, were relegated to arguing that the community did not constitute a "tribe." In an attempt to resolve the dispute, the judge suggested that an election be held, but the government's lawyers refused.

The Southern Africa Project also aided the defense of some 200 families living in the black community of Davel who are resisting removal to Mayflower in the bantustan of KaNgwane. Rather than destroying the village, as in the Magopa case, the government is attempting to use pass laws and influx control legislation to force the families to move.

Kwa-Dela, Davel's black township, is on the border of the potato farm town of Bethal. Many of the area's farm laborers, and children of farm laborers, have gone into the black township to work in the steel industry and foundries. Strictly speaking, the laborers' children are not "residents" of any homeland or urban area because they were born on "white" farms, which are not "prescribed" areas in terms of the Blacks (Urban Areas) Consolidation Act.

Nevertheless, since the abolition of labor tenancy in the early 1970s and the introduction of quotas of black farm laborers on white farmland, tens of thousands of black families have become vulnerable to eviction and prosecution for trespass and other charges. The government has charged each of Davel's residents separately in the Commissioner's Pass Law Court with offenses under pass and influx control legislation. Charges against those defendants who have appeared in court to date have been withdrawn.

Legal support is of the utmost importance for communities fighting against removal. Almost all communities faced with this threat resist, despite the knowledge that so many others have failed and have been forced to move, sometimes with loss of lives. With legal assistance, communities such as Daggakraal and Driefontein have recently won some limited victories. Every small gain may delay the removal until some other political factor intervenes to force the government into abandoning the removal plans altogether.

Even when resistance fails, as in Magopa, legal action increases the potential for proper compensation for destroyed property and provides time and focus for supportive work and community organization.

Removals are particularly difficult to fight by the processes of law because of the many South African laws directed specifically against Blacks. For example, the Blacks Prohibition of Interdicts Act of 1956 expressly precludes the issuance of injunctions against the execution of any order to remove black people, whether those orders are lawful or not.

The Proposed Cession of KaNgwane

When bantustans resist what they view as bogus independence, the South African Government devises other means to achieve its goal of denationalizing its black citizens.

For the past century, Swaziland has claimed that the KaNgwane bantustan, adjacent to its northern and western borders, is part of its ancestral lands. When the leaders of the KaNgwane homeland refused to accept bogus independence, the South African Government made plans to cede the area to the Government of Swaziland. It was speculated that the proposed cession was part of the 1982 nonaggression treaty signed by South Africa and Swaziland. Under the treaty Swaziland undertook to prevent African National Congress members from using the country as a base, and it was thought that the land had been promised to Swaziland as a quid pro quo for this crackdown.

Cession of the territory to Swaziland would have circumvented KaNgwane's opposition to South Africa's separate development policy. All Swazi-speaking South Africans would have been denationalized under the proposed cession, not only all Swazi-speaking people living in the territory of KaNgwane, but also those living in urban or other "white" areas of South Africa. By ceding KaNgwane to Swaziland, the South African Government would have accomplished its primary goal by making another 800,000 Blacks "aliens" in South Africa. No other case supported by the Southern Africa Project has affected as many people.

After KaNgwane's leaders won a Supreme Court ruling which blocked the proposed cession, the South African Government appointed a high-level commission to study the issue. Headed by the Hon. F.H.L. Rumpff, former Chief Justice of the South African Supreme Court (Appellate Division), the Commission was given subpoena power and authority to hear oral testimony given under oath, cross-examine witnesses, and consider relevant evidence and information for investigation and recommendations.

Attorneys for KaNgwane requested the Southern Africa Project to submit to the Rumpff Commission an amicus curiae brief on the international law issues raised by the proposed cession and denationalizations. The Project's brief, submitted on March 13, 1984 and prepared with the assistance of Professors Henry Richardson of Temple University School of Law and Goler Teal Butcher of Howard University School of Law, addressed the question of the

extent to which a state violates international law by ceding portions of its territory to another state and/or by denationalizing portions of its population without the consent of the affected population. The brief focused on the implications of the proposed cession of KaNgwane to Swaziland, particularly with regard to the rights of self-determination and racial non-discrimination. The Southern Africa Project circulated the brief among international legal scholars, practitioners and associations, many of whom endorsed the Project's brief or, like the Geneva-based International Commission of Jurists, submitted comments of their own to the Rumpff Commission.

On June 19, 1984, the South African Government disbanded the Rumpff Commission and shelved its plans to cede KaNgwane to Swaziland. In his letter to the South African Government recommending that the Commission be dissolved, Chairman Rumpff noted that, as Swaziland claims only 560,000 inhabitants, the proposed influx of denationalized South Africans would more than double that tiny country's population. He also admitted that "the overwhelming majority of the inhabitants of KaNgwane are against incorporation in Swaziland." Attorneys for KaNgwane believe that the support of the Southern Africa Project was instrumental in the favorable outcome. It was impossible for the South African Government to proceed with its plans without provoking an unprecedented international outcry.

The Ciskei Bus Boycott

A number of black townships near "white" urban areas have been incorporated into a bantustan by an arbitrary redrawing of the boundaries to include them. In one sweep of the pen, the township residents then lose what is called their "Section 10 rights" to live in the "white" area. They become guest workers, commuting to work from the bantustan daily. South Africa's second largest black township, Mdantsane, was incorporated into the Ciskei homeland in this manner.

Most of Ciskei's work force lives in Mdantsane and commutes to work into nearby East London by bus or train. During July 1983, Mdantsane's commuters instituted a boycott against the bus company to protest increased fares. Since the state owns a substantial share of the bus company, a bus boycott is considered sabotage against the state. In August 1983, Ciskeian "President for Life" Lennox Sebe declared a state of emergency in Mdantsane, imposed a curfew, and directed police and vigilantes, the latter from his political party, to stop the boycott by force. Commuters were yanked out of trains and taxis, and forced into buses. Some were shot. Observers estimate that at least 90 people were killed, and thousands have been arrested for violating state of emergency regulations.

The boycott and the government's harsh response continued throughout 1984. In March, a man was shot dead by an employee of the bus company. Company officials denied issuing firearms to employees. In July and August, shortly after the bus boycott entered its second year, the Ciskei police detained six members of the Committee of Ten, the organization formed to represent the commuters. And, all gatherings of more than five people were banned in the Mdantsane area between the first and sixth of August, coinciding with the anniversary of the first fatal shootings of commuters.

The Ciskei has employed and, in certain respects, strengthened South Africa's repressive security legislation. A study of Ciskei's security legislation described it as "having seized the worst aspects of South Africa's legal system and then honed and tempered them into a uniquely malevolent tool." Section 26 of the Ciskei National Security Act (CNSA) is analogous to Section 29 of South Africa's 1982 Internal Security Act in that it permits indefinite, incommunicado detention for purposes of interrogation, and denies access to legal counsel or visits from relatives or friends while allowing the authorities to withhold all information about the detainee. The CNSA also authorizes the banning of individuals and defines security offenses in exceptionally broad terms.

In 1984, the Southern Africa Project continued to assist defendants charged in connection with the Ciskei boycott. Even lawyers faced the state's repressive tactics. Malcolm Qabaka, a Mdantsane lawyer and former Ciskei magistrate, was detained under CNSA's Section 26 after addressing the March 1984 funeral of a student who had been shot by police while crossing a highway. The wounded student had taken refuge in Qabaka's nearby home. The police claimed that their fire, which had also wounded four others, had been directed at bus boycotters stoning buses. Qabaka, who described at the funeral how the student met his death, was charged with incitement to public violence and subversion. The Southern Africa Project financed his successful defense in State v. Qabaka.

Charges brought against the bus boycotters have included public violence, assembly with intent to disturb the peace, illegal gathering, and intimidation. In State v. Lungile Fokwebe & 195 Others, almost two hundred workers were detained by Ciskei security police and armed forces as they attempted to board the train in Mdantsane to commute to work in East London. When they were brought to trial for public violence and illegal gathering, the evidence given by the state witnesses was so unreliable that the defendants were acquitted of all charges. Other cases assisted by the Southern Africa Project in which the defendants faced similar charges included State v. Felicia Tshazibane & 23 Others, State v. Masumpa & Another, State v. Phila Cewu, State v. David Velebhayi & 4 Others, and State v. Zolile Luwaca.

The Southern Africa Project also financed the defense of several commuters charged after the police assaulted them in an attempt to stop them from singing freedom songs on the train from Mdantsane to East London. In State v. Mtyeku, a female student, who was treated twice for police-inflicted injuries, was later charged with assaulting a policeman. Three of the defendants in State v. Lennox Sango & 5 Others were held in the hospital under police guard for at least four months after having been shot by police. Members of the East London Youth Congress and the Release Mandela Campaign, the six youths in the Sango case were charged with attempted murder and promotion of the African National Congress by singing ANC songs on the train. And, in State v. Manase, a state witness was charged with perjury in connection with the trial of seven men accused of trying to murder a policeman. The policeman, who shot and permanently disabled two of the men accused of trying to kill him, emerged unscathed from the alleged attack on his life.

In addition to financing the defense of several hundred people, the Southern Africa Project is financing some 40 civil actions brought in connection with the Ciskei bus boycott. The claimants are requesting awards of R10,000 in damages per injured plaintiff for unlawful assault by police or members of the armed forces.

Unrest in the Transkei

As in the rest of South Africa, detention for reasons of "state security" is commonplace in the bantustans. In the Transkei, detention incommunicado without warrant was authorized in 1960 under Proclamations R.400 and R.413. After South Africa declared Transkei "independent" in 1976, the Transkei administration repealed those laws and replaced them with the equally stringent Transkei Public Security Act. The emergency regulations promulgated under this Act include provisions for curfew and banning public meetings, and for curbing the movement of residents by prohibiting them from leaving their towns without the permission of magistrates or police commanders and by restricting them to their homes at night. The emergency regulations introduced in 1980 have since been annually renewed.

Several hundred people were detained in 1984 under the Transkei's security legislation. Students at the University of the Transkei (Unitra) were detained en masse for their role in the school and election boycotts. In May, Transkeian police baton-charged hundreds of students who were boycotting lectures, detaining at least 140 under emergency regulations. The Southern Africa Project supported civil actions for damages for unlawful detention brought by those students. In addition, after 248 Unitra students were released in September from a month's detention without charge, they were charged with public violence in connection with the anti-election protests. Others detained

during the year under Transkei State of Emergency regulations included more than two hundred people from the Engcobo district who were held in a police camp for up to six months after they rejected a bantustan official chosen for them by the South African Government.

Police brutality in the Transkei was evident in attacks on peaceful citizens. The Pondoland area of the eastern Transkei has long been a stronghold of opposition to the Transkeian President Kaizer Matanzima. In Pondoland's Flagstaff and Bizana districts, a new law which prohibits carrying traditional sticks, assegais (spears), and shields has further exacerbated the tension between the districts and the Transkeian authorities.

On March 25, 1984, about 60 people, many from the Flagstaff and Bizana districts, attended an all-night party in the Qasa district of Pondoland. As is the custom, the men carried sticks and assegais. Without provocation, 20 Transkei police dressed in camouflage uniforms opened fire with automatic weapons on the party at 6:00 a.m. Three people were killed, including a 9-year-old boy, and two others were injured. After the attack, the policemen separated the women and men, tear-gassed and then detained them all. Two days later, they were charged with illegal gathering and possession of sticks and assegais.

Before the group appeared in court, the people were instructed by the Transkei police not to inform the magistrate about the shootings. The group defied the police instruction. Nevertheless, the men were convicted of both charges. The women were acquitted of possession of sticks and spears, but were convicted of illegal gathering. In Ngutyana v. Transkei Police, the Southern Africa Project is financing civil actions for wrongful death and unlawful assault instituted on behalf of the dependents of those killed and injured in the attack.

NAMIBIA

My Lord, we find ourselves in a foreign country, convicted under laws made by people we have always considered foreigners. We find ourselves tried by a judge who is not our countryman and who has not shared our background....

We are Namibians and not South Africans. We do not now, and will not in the future recognize your right to govern us, to make laws for us in which we have no say, to treat our country as if it were your property and as if you were our masters.

These are the words of a co-founder of the South West Africa People's Organization, Herman Toivo ja Toiva, as he addressed the Supreme Court in Pretoria, South Africa, on January 26, 1968, after he and 33 other Namibians had been found guilty of offenses under the Terrorism Act. He was sentenced to serve 20 years on Robben Island, South Africa's notorious maximum-security prison for political opponents. In April 1984, Herman Toivo ja Toivo was released, four years prior to the expiration of his sentence. He returned to a Namibia held as tightly in South Africa's grip of illegal occupation as it had been when he was sentenced.

More than 18 years have passed since the United Nations terminated South Africa's mandate over Namibia, and 14 years since the International Court of Justice declared South Africa's presence in Namibia to be illegal. Still, South Africa occupies the Territory by force of up to 100,000 troops, securing its illegal control of Namibia by occupying substantial portions of southern Angola as well. Under the South African occupation, at least 80 percent of all Namibians live under de facto martial law.

The South African authorities in Namibia use a series of statutes, administrative regulations and proclamations to give security police and military forces sweeping powers to arrest, detain without charge or trial and interrogate. "Disappearances" are commonplace. Several respected community, church, and political leaders have charged the South African Defense Forces (SADF), South Africa's occupying force in Namibia, and Koevoet ("Crowbar"), a special counter-insurgency unit of the South African security police, with serious abuses of authority and documented atrocities in dealing with the Namibian people. Yet, South African and "Namibian" statutes give defense forces and security police personal immunity from civil or criminal responsibility for any action that may be ascribed to "good faith."

For much of 1984 the Southern Africa Project was engaged in a major international effort to secure the release of detainees who had been held illegally and incommunicado for six years in a prison camp near Mariental, Namibia. Most of the detainees had been captured in a 1978 military attack by the South African Defense Forces on the Cassinga refugee camp in Angola. Over 600 Namibian refugees died in that attack, including women, children and the aged. At least 120 survivors of the attack were forcibly abducted from Angola and taken to the Mariental Camp by the South African Defense Forces.

On the instructions of the Southern Africa Project, an application in the nature of a writ of habeas corpus was filed in March in the Supreme Court of Namibia on behalf of the detainees.

South Africa initially denied the existence of the detainees but, as the result of international pressure, finally conceded it was holding survivors of the raid on Cassinga. For several years no relatives or legal representatives were permitted to visit the camp, but recently the International Committee of the Red Cross and certain relatives had been allowed restricted visits.

Attorneys acting for the detainees charged that they were "unlawfully seized by the SADF outside the Territory of South West Africa across an international frontier in the sovereign state of Angola...that such seizure was ultra vires the functions and powers of the SADF...and contrary to international law and to the laws of [Namibia]."

No charges were ever brought against the detainees. The South African authorities claimed that they were being held under the authority of Proclamation AG 9, a security regulation that permits indefinite incommunicado detention without charge or trial of persons considered a threat to the "peaceful and orderly constitutional development" of Namibia. However, the particular section cited as purported authority for the detention of the Cassinga captives was actually enacted subsequent to their capture, abduction and incarceration.

Additionally, there were disturbing reports that the detainees had been tortured, physically mutilated and subjected to harsh conditions and hard labor. In an affidavit attached to the application, Benedictus Shilongo, who was captured in Angola along with the Cassinga detainees but subsequently released before their transfer to the camp at Mariental, describes his treatment:

During my detention...I was assaulted on different occasions by the SADF with a bare fist or the open hand and sometimes with a stick.

During the detention I was also sometimes given electric shocks and also saw how Nikodemus Katofa was suspended for long periods with his arms bound to a wire fence so that his feet did not touch the ground.

I was, however, kept blindfolded for the most part of my detention and regularly heard screams in the camp where we were held.

Nikodemus Katofa was among those captives who were still being held at the beginning of 1984 in the camp at Mariental.

The application for their release, Kauluma & Others v. Minister of Defense & Others, named as defendants the South African Minister of Defense, the Administrator-General of Namibia, the General Officer Commanding the Namibian Territory Forces, and the commander of the Mariental military camp. The application was financed by the Southern Africa Project and filed by correspondent attorneys at the Namibian law firm of Lorentz & Bone. Additionally, the Southern Africa Project prepared a brief on the international law issues relevant to the case which was incorporated into the submissions to the court. The Southern Africa Project Director applied for and was denied a visa to attend the proceedings as an observer.

The South African Government's reaction to the lawsuit was unprecedented. On April 27, 1984, the South African State President ordered the Minister of Justice to rescind the Namibian Supreme Court's jurisdiction to hear the application, citing a clause in South Africa's Defense Act which provides for the indemnity of government officials and members of the South African Defense Forces for any acts committed in an "operational area." The Act provides for the discontinuance of proceedings instituted in any court of law against the state or any member of the South African Defense Forces "if...the State President is of the opinion...that it is in the national interest that the proceedings shall not be continued."

The invocation of this provision of the Defense Act for the first time in South African and Namibian history provoked an outcry in political and legal circles, both within South Africa and Namibia, and abroad. The Southern Africa Project made extensive efforts to publicize the events, resulting in broad-based support for the release of the captives. Churches, members of Congress, non-governmental organizations and individuals urged the South African Government to release the captives, and the Project's regular press releases kept key individuals and organizations up to date on developments in the case. These efforts contributed to a heightened sense of concern in the United States over the plight of the Cassinga captives. Congressman William H. Gray III (D-PA), for example, was joined by several of his colleagues in sponsoring a successful congressional resolution call-

ing on the South African Government to release the detainees. The Southern Africa Project worked with Congressman Gray, at his request, in drafting the resolution. At the urging of the Southern Africa Project, the American Bar Association issued a statement condemning the action as a circumvention of "the principles of the maintenance of an independent judiciary and the rule of law."

In efforts to head off what seemed to be an impending constitutional quarrel and to placate world opinion over its decision to halt judicial inquiry of the Cassinga detentions, the Administrator-General for Namibia ordered the release of 55 of the detainees on the eve of a hearing before the Namibian Supreme Court on the validity of the revocation of its jurisdiction to hear the case. The court subsequently found in favor of the lawfulness of that action and of the detentions. Leave to appeal the decision was granted.

The release of the remaining 74 Cassinga detainees on October 18, 1984 came when preparations were being made under the sponsorship of the Southern Africa Project to challenge on appeal the lawfulness of the remaining detentions. In addition to pursuing the appeal of the judgment, correspondent attorneys are proceeding with civil actions on behalf of the former Cassinga detainees claiming damages for unlawful detention and assault. A test case, Veronica Festus v. Administrator-General & Minister of Defense, financed by the Southern Africa Project, should come to trial by the end of 1985.

With the assistance of the Southern Africa Project, another former Mariental detainee has filed a civil action for damages against the Minister of Defense and the Administrator-General for unlawful detention and assault in an incident which occurred after their release from the camp. In Angula v. Minister of Defense & Administrator General, the former detainee has claimed that, while walking home in December along a gravel road, he was attacked by several policemen, sustaining a broken hand and other injuries.

In June, South Africa's Special Police Task Force arrested and detained 37 people at a barbecue celebrating the release of 55 of the Cassinga captives. The barbecue, which took place on June 9, 1984 at a Catholic center north of Windhoek, was raided by the police paramilitary unit shortly after the party began. Held under Proclamation AG 9, most of those detained were leaders of the South West African People's Organization (SWAPO) based in Namibia. In addition, the police detained two attorneys from the law firm of Lorentz & Bone, which had litigated the case seeking the release of the Cassinga captives.

Security police sought to justify the arrests based on what they characterized as the detainees' "possible transgression" of the Prohibition and Notification of Meetings Act, a statute which

effectively bars political meetings. Those who organized the barbecue had not considered it a political meeting, and so had not sought official permission to hold it.

The arrests proved embarrassing for the South African Government. At the time, Prime Minister Botha was in Europe attempting to graft a positive image onto Pretoria's "efforts" on Namibian independence. Botha met with the Pope, who was believed to have been well-informed of the detentions, on June 11th. The 37 were released two days later, and all charges against them were eventually dropped.

The Southern Africa Project's correspondent attorney in Namibia, David Smuts of Lorentz & Bone, visited the United States during October. The Project sponsored a luncheon at which Mr. Smuts spoke about the case of the Cassinga detainees and about the law of Namibia in general. Shortly thereafter, the Southern Africa Project learned that, in part because of the work undertaken for the Lawyers' Committee, the Lorentz & Bone law firm lost a major client, the Windhoek City Council. The City Council account had represented approximately two-thirds of the firm's income.

There were renewed attacks on the Namibian press during 1984. In February, Gwen Lister, a journalist with the Windhoek Observer, was charged with violating South Africa's Customs and Excise Act, Publications Act, and Internal Security Act. The charges were based on her possession of a number of banned publications, including the SWAPO constitution, which she had obtained at a United Nations conference on Namibia in Paris. The Southern Africa Project financed her defense in the State v. Gwen Lister, which resulted in acquittal on all charges.

Later in 1984, the May 12th and May 19th issues of the Windhoek Observer and subsequently the entire paper was banned because of Gwen Lister's coverage of the Lusaka talks on Namibian independence. The Southern Africa Project financed a challenge to the banning orders, which were later repealed in part.

South Africa's continued occupation of Namibia serves to secure the systematic exploitation of Namibia's labor force and natural resources by transnational corporations based in South Africa and a number of Western countries. Foreign firms dominate Namibia's economy. Of the 150 U.S. transnational corporations that have had any involvement with Namibia over the past few decades, over 70 percent of them entered Namibia pursuant to a purported South African grant of authority after the 1966 termination by the United Nations of South Africa's mandate to administer that territory. Since the Advisory Opinion of the International Court of Justice in 1971 which declared all actions taken by South Africa in Namibia to be null and void, less than 10 percent of U.S. companies involved with Namibia have withdrawn

and U.S. corporate investments in Namibia have increased from \$5 million to at least \$32 million.

In the exercise of its authority as Trustee for the people of Namibia and the natural resources of the Territory, the United Nations Council for Namibia in 1974 promulgated Decree No. 1 for the Protection of the Natural Resources of Namibia. Pursuant to Decree No. 1, no person or entity may explore for, extract, export or in any other way exploit the natural resources of Namibia without the consent and permission of the Council, on penalty of seizure and forfeiture of those commodities wherever located. The Decree declares any concession or license for the exploitation of Namibian resources granted by the South African Government to be legally null and void, and provides that anyone contravening the Decree may be held liable for damages by the future government of an independent Namibia. The Decree, enacted by the only legal administrative authority of Namibia, can be regarded as valid law of Namibia.

The provisions of Decree No. 1, as well as general provisions of international law, have been blatantly violated by corporations which continue to profit from Namibian resources. In fulfillment of its continuing mandate to implement Decree No. 1, the United Nations Council for Namibia has taken several preliminary steps to implement its provisions, including commissioning studies on the feasibility of instituting legal proceedings to enforce the Decree in the domestic courts of those countries where corporations or individuals are engaged in unlawful economic activities with respect to Namibian resources. At the request of the United Nations Commissioner for Namibia, the Litigation Committee of the Southern Africa Project prepared a study, completed in June 1984, of the feasibility of enforcing Decree No. 1 in the courts of the United States.

In addition, the Southern Africa Project presented papers and testimony on Namibia to various organizations during the year. In October 1984, the Project Director presented papers on political imprisonment in Namibia and on Decree No. 1 at a United Nations Council for Namibia symposium. In hearings on Namibia held before the Subcommittee on Africa of the Foreign Affairs Committee of the U.S. House of Representatives, the Project Director presented testimony regarding the legal history of South Africa's illegal occupation of Namibia with its concomitant adverse effects on the human rights of Black Namibians. Also discussed were the activities of the United States Government and U.S. corporations which in effect recognize South African authority in Namibia in violation of international law.

U.S. ANTI-APARTHEID ACTIVITY

Dramatic events in South Africa during 1984 sparked a dramatic response in the United States. The U.S.-based Free South Africa Movement was launched on November 21, 1984 with a series of demonstrations organized to protest South Africa's system of apartheid. Reminiscent of the 1960s campaign for domestic civil rights, nearly 2,000 people to date have allowed themselves to be arrested in daily demonstrations at the South African Embassy in Washington to demonstrate solidarity with black South Africans. Among those arrested have been 18 members of Congress and Senator Lowell Weicker (R-CT), the first senator in U.S. history to be arrested for civil disobedience while in office. Rosa Parks, who helped found the U.S. civil rights movement almost 30 years ago when she refused to sit in the back of a bus, walked the picket line during December with other supporters of the Free South Africa Movement.

Since the demonstrations and arrests began in Washington, the Free South Africa Movement has spread across the United States. As a broad umbrella organization for national anti-apartheid activists including trade unionists, church activists, and elected officials, the Free South Africa Movement has called on the South African Government to end its system of apartheid and on the Reagan Administration to end its policy of "constructive engagement." By focusing American attention on South Africa, the Free South Africa Movement has helped to generate support for the passage of federal legislation which would establish economic sanctions against South Africa.

The Southern Africa Project of the Lawyers' Committee has worked in conjunction with the Free South Africa Movement. In an effort to focus attention on the important role that lawyers can play in supporting the movement against apartheid and pressing for the achievement of the Rule of Law in South Africa, the Project organized "Lawyers Against Apartheid Day" held in front of the South African Embassy in Washington on January 8, 1985.

Over 1,000 lawyers participated in that demonstration in one of the largest turnouts since the beginning of the protests in November. Eight lawyers demonstrated their opposition to apartheid by submitting to arrest: Ramsey Clark, former U.S. Attorney General under the Johnson Administration; Father Robert Drinan, Professor of Law at Georgetown Law Center; John Kramer, Associate Dean at Georgetown Law Center; George Dalley, former Mondale Deputy Campaign Manager; Arthenia Joyner, President of the National Bar Association; Goler Teal Butcher, Professor of International Law at Howard University School of Law; Victor McTeer,

Mississippi civil rights attorney; and Gay McDougall, Southern Africa Project Director.

The Southern Africa Project encouraged the organization of similar "Lawyers Against Apartheid" Days in Boston and New York. At the request of Barbara Arnwine, Executive Director of the Boston Lawyers' Committee, the Southern Africa Project Director joined the Governor of Massachusetts, the Dean of Harvard Law School, and a South African attorney as speakers at the Boston demonstration.

The success of those demonstrations has led to the circulation by Lawyers Against Apartheid of a statement on apartheid for endorsement by American lawyers and law students to be presented to the 99th Congress.

In addition, the Southern Africa Project Director serves on the Free South Africa Movement's legal coordinating committee and, in that capacity, is involved on a daily basis in providing legal counsel to those arrested in front of the South African Embassy in Washington and in working with attorneys in other cities who are defending protesters arrested and brought to trial in those localities.

The Board of Directors of the Lawyers' Committee for Civil Rights Under Law also responded to the increasingly tragic events in South Africa. Condemning apartheid as a system which "violates the most fundamental concepts of human liberty and equality," the Lawyers' Committee issued an unprecedented statement which called on the United States Government to abandon its present policy of "constructive engagement." In the five-page statement, the Lawyers' Committee not only urged "reinvigorated diplomatic efforts" with the South African Government, but also recommended that "sterner measures" be considered in an effort to end apartheid. Those sterner measures include: limitation of official relationships with Pretoria; tightened export controls on American goods and technology; strengthened restrictions on the export of nuclear equipment, technology and substances to South Africa; requiring U.S. companies doing business in South Africa to comply with fair employment principles; prohibition of new investment in, and bank loans to South Africa; and withdrawal of investment in South Africa. The statement was accompanied by a 20-page staff report which analyzed the impact of apartheid laws and practices on the majority Black population. The statement also condemned South Africa's continuing occupation of Namibia as a flagrant violation of international law. The statement, which was released at a press conference held by Lawyers' Committee Co-Chairman Robert H. Kapp, was reported extensively in the South African press.

In recent years, there has been increasing support for divestment as an expression of U.S. opposition to apartheid. The goal of divestment is the withdrawal of funds from corporations

and financial institutions that do business in or with South Africa. Major institutions such as universities, church bodies, and trade union pension funds have divested. To date, local activists around the country have succeeded in obtaining the passage of divestment legislation in five states and 17 cities. Bills aimed at divestment of public funds have been introduced in an additional 28 state legislatures. By the end of 1984, state and municipal bodies had mandated divestment of over \$1.3 billion in public funds.

Although opponents of divestment have often claimed that black South African workers themselves are hostile to divestment of U.S. funds from South Africa, many workers have gone on record in favor of divestment. In 1984 more than 100,000 members of the Federation of South African Trade Unions (FOSATU) endorsed a resolution supporting divestment, and called for "international pressure on South Africa to bring about social justice and a truly democratic society...the pressure for divestment has had a positive effect and should not therefore be lessened."

In connection with the growing divestment debate, the Southern Africa Project received a request from Senator Edward Kennedy to provide a memorandum of law addressing the issue of the constitutionality of state and local divestiture legislation. The Southern Africa Project produced the requested legal opinion with the assistance Mark P. Gergen at the law firm of Arnold and Porter.

Even legislators usually supportive of the Reagan Administration have voiced their disapproval of "constructive engagement." On December 4, 1984, 35 members of the Congress of the United States, who characterize themselves as "for the most part, politically conservative," wrote the Ambassador of South Africa that "[e]vents of recent weeks in South Africa have raised serious questions about your government's willingness to move more progressively and aggressively toward real human rights reforms.... We are looking for an immediate end to the violence in South Africa accompanied by a demonstrated sense of urgency about ending apartheid." Their letter condemned "the reality of apartheid and the violence used to keep it in place," and warned that absent meaningful change, they were prepared to recommend that the United States curtail further business investment in South Africa and organize international diplomatic and economic sanctions against that country.

Although proposed economic sanctions amendments to the Export Administration Bill did not survive the House-Senate conference committee on the bill as the 98th Congress came to a close, South Africa has become a major issue of debate in the present 99th Congress. Over a dozen South Africa-related bills have been introduced in the House and, for the first time, strong anti-apartheid legislation has been proposed in the Senate.

The strongest legislation, introduced with bipartisan backing in both the House and the Senate, would impose specific sanctions short of total divestment against South Africa. If passed, the bill would prohibit new bank loans to the South African government and all new investments in South Africa and Namibia. This bill, known as the Anti-Apartheid Bill of 1985, was co-sponsored in the Senate by Senators Edward Kennedy (D-MA), Lowell Weicker (R-CT), William Proxmire (D-WI), and Paul Sarbanes (D-MD), and in the House by Representatives William Gray (D-PA), Howard Wolpe (D-MI), Steve Solarz (D-NY), and Walter Fauntroy (D-DC). The legislation would also ban computer sales to the South African Government and the importation of Krugerrand gold coins into the United States.

As this report goes to press in April 1985, Democrats in the U.S. House of Representatives, meeting in closed caucus, unanimously approved a resolution endorsing the use of economic sanctions against South Africa to force an end to apartheid, and called on Congress to approve the Anti-Apartheid Bill. Without specifically naming it, the House resolution also rejected "constructive engagement" and states that the United States must distance itself more sharply from the "evil and unacceptable apartheid system."

PROJECT FINANCES

STATEMENT OF REVENUES AND EXPENDITURES
JANUARY 1, 1984 THROUGH DECEMBER 31, 1984*/

REVENUES		\$ 410,922.19
EXPENDITURES		
<u>Personnel Expenses</u>		
Salaries	\$ 62,950.95	
(Director, Staff Assistant, Research Assistant, and Miscellaneous Services)		
Employee Fringe Benefits	8,754.56	
<u>Non-Personnel Expenses</u>		
Travel and Meetings	2,645.29	
Office Operations	48,074.13	
General and Administrative (Insurance, Depreciation of Furniture and Fixtures)	1,706.09	
Contractual Legal Services	293,968.14	
Allocated Administrative Expenses	4,937.55	
		<hr/>
TOTAL EXPENDITURES		\$ 423,036.71
REVENUES LESS EXPENDITURES		- \$ 12,114.52
BALANCE BROUGHT FORWARD JAN. 1, 1984		\$ 150,924.14
FUND BALANCE DEC. 31, 1984		\$ 138,809.62

*/ This statement of revenues and expenditures was produced using unaudited financial reports. Copies of the Lawyers' Committee's audited financial report for 1984 are available upon request.

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Lutheran World Ministries
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In addition, the work of the Southern Africa Project could not have been achieved without the assistance of many organizations and individuals. For their work, guidance, and commitment, the Project would like to thank: His Excellency Mr. Anders Ferm, The Honorable William Gray, The Honorable Howard Wolpe, Mr. E.S. Reddy, Ms. Kathy Blanck, Mr. Salih Booker, Ms. Goler Teal Butcher, Ms. Janell Byrd, Mr. Maxwell Chibundu, Ms. Kay Cumberbatch, Mr. Frank Deale, Mr. Boris Feldman, Mr. Mark Gergen, Ms. Ruth Gordon, Mr. Herbert J. Hansell, Ms. Anne Holloway, Mr. Gerald Horne, Dr. Herbert Howe, Mr. Peter Hurst, Ms. Kathy Kelley, Ms. Elizabeth Landis, Mr. Bert Lockwood, Jr., Mr. Myles Lynk, Dr. Edward May, Father Earl Neil, Mr. John Payton, Ms. Loretta Polk, Mr. Michael Prosper, Mr. Henry Richardson, Mr. Robert H. Roggeveen, Ms. Connie Spheeris, Ms. Sharon Weinman, The American Committee on Africa, The Washington Office on Africa, TransAfrica, Amnesty International, The Episcopal Churchmen for South Africa and The Urban Morgan Institute For Human Rights.

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